

**FINANCE/EXECUTIVE COMMITTEE  
AMENDMENTS FOR ORDINANCE 06-O-2700**

1. **Amend Article III, Equal Employment Opportunity, Sections 114-51, Policy statement, and 114-52, Equal employment opportunity program for city departments and agencies, subsection (b)(1) to prohibit discrimination because of**

“... race, color, religion, age, disability, sex, sexual orientation, veteran’s status and national origin.”

*The existing language refers to marital status, creed and color which are outdated terms. The amendment updates the language to include the protected classes listed under Title VII.*

2. **Amend Article IV, Civil Service, Section 114-76, Definitions, by adding the following definition:**

*Salary adjustment* means an increase in salary within the same pay grade, based on additional duties or responsibilities and other qualifying factors.

*‘Salary adjustment’ is a term that is used often but has never been defined in the Code. This language not only defines it but sets strict parameters around how salary adjustments are granted.*

3. **Amend Section 114-79, Civil service board, (a) and (b) to read as follows:**

(a) There shall be a civil service board, which shall be the official protector of the civil service system. The civil service board shall consist of five members, who shall be appointed by the mayor with the consent of the council and shall hold office for a term of three years. **These officers shall be compensated, by the case and not by the day, at a pay rate established by the human resources commissioner, not to exceed two cases per day per hearing officer.**

(b) The Mayor, **with the consent of council**, shall be authorized to appoint up to **three (3)** ad hoc hearing officers who shall have the same power to conduct hearings and make final determinations and dispositions on appeals of adverse actions, and shall be compensated, by case and not by day, at the same rate as appointed civil service board members

*Currently, civil service board members are paid \$100 per day to hear a case and \$100 to write the opinion. This amendment allows board compensation by case, rather than by day to encourage board members to hear more than one case in a day. The money for the Civil Service Board is allocated as a line item in DHR’s budget.*

*Subsection (b) increases the proposed number of ad hoc hearing officer from two to three and requires the ad hoc appointments to be adopted by council.*

*Three hearing officers are required to hear a dismissal, and will be required to hear a suspension of 5 days or more. Three ad hoc officers should relieve some of the difficulty in convening a three member panel. There are currently 5 board members appointed by the mayor.*

**4. Amends Section 114-120, Compensation Committee, to read as follows:**

There shall be an administrative board known as the compensation committee comprised of the chief operating officer, chief financial officer, commissioner of human resources, ~~president of council or designee,~~ **and chair of the finance/executive committee.** The committee shall review personnel transactions as provided for herein and other transactions as deemed appropriate by the commissioner of human resources.

*This amendment was recommended by Councilman Maddox. It adds the Council President and the chair of the committee of purview.*

**5. Amend Section 114-127, Increase in compensation upon promotion, to shorten the title and added a subsection (b), to read as follows:**

**Sec. 114-127. Increase in compensation.**

**(b) Upon salary adjustment. A salary adjustment within the same pay grade may be granted to an employee based on additional duties or responsibilities and other qualifying factors. Such salary adjustment shall not exceed 10% of the employees current salary in any given 12-month period.**

**6. Amend Division 10, Promotions, Section 114-349, Certification and selection, subsection (c) to include the following statement:**

**"A credit check shall be conducted if such promotion warrants such action based on job relatedness."**

*It has been stated that a credit check will be conducted when someone is hired or moved to a position of trust. This policy is reflected in section 114-184(d), Employment requirement, and 114-361, Transfers, but is not in section 114-349. This amendment simply adds the statement to section 114-349 to be consistent.*

**7. Amend Section 114-398, Evaluation, to read as:**

Evaluations shall be prepared by the immediate supervisor of each employee and reviewed by the appropriate appointing authority. A supervisor employee who is leaving a position **shall** be required to submit performance evaluation forms on all of the employees under such supervisor's supervision who have not been evaluated within the previous six-month period.

*Council member Maddox suggested DHR should change the word "will" to "shall".*

**8. Amend Section 114-429, Voluntary shared leave program, subsection (c)(1)(d) to read as follows**

Has exhausted all accrued leave.

*This amendment is in response to a concern of the employee groups. Currently the Voluntary Shared Leave policy requires employees to use 30 days of advanced sick to be eligible to receive shared leave. This amendment deletes this requirement, although the employee will still be required to exhaust accrued leave.*

**9. Amend Section 114-505, Meet and confer sessions, by adding the following:**

(c) The Commissioner of Human Resources or designee shall meet and confer monthly with any interested employee organization recognized for deduction of dues under section 114-28 of this Code, for the purposes of discussing wages, rates of pay, benefits, working conditions and other terms of employment for its members.

*This amendment was requested by the employee groups. DHR currently meets monthly with each employee group. This language simply codifies that practice.*

**10. Amend Division 3, Disciplinary Action, to include sections 114-526, Statement of Policy, through 114-532, Emergency situation.**


*Part of the disciplinary action section is misplaced in the grievance section. This amendment simply moves sections 114-526 through 114-532 to its proper place in division 3.*

**11. Amend Section 114-547, Notice of appeal, subsection (a)(1) by deleting the current language and place in lieu thereof the following:**

"The date when the employee receives final written notice of the action or decision or the date final notice is delivered by certified mail to the last known address or date of last delivery attempt by certified mail to the last known address, as documented by the United States Postal Service."

*This amendment was requested by the employee group. It clarifies the language such that the clock will start when the final notice is received or final delivery attempt has been made by the USPS and the notice is returned to the city.*

AN ORDINANCE BY *Howard Shook*

06--2700

**AN ORDINANCE TO AMEND THE CODE OF  
ORDINANCES, CITY OF ATLANTA, GEORGIA,  
CREATING A NEW CHAPTER 114, PERSONNEL;  
AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta has a civil service system that is complex and in need of substantial modernization; and

**WHEREAS**, the City of Atlanta civil service system establishes the framework for personnel policies and transactions that facilitates recruitment and retention of talented personnel, and

**WHEREAS**, to effectively manage the human capital of the city, the civil service system must be flexible and responsive enough to adapt to most circumstances.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS** that the Code of Ordinances, City of Atlanta, Georgia, be and the same is hereby amended as follows:

**SECTION 1:** That the language in Chapter 114, Personnel, is deleted and placed in lieu thereof the following:

## **Chapter 114**

### **ARTICLE I. IN GENERAL**

#### **Sec. 114-1. Personnel records.**

(a) With respect to both the unclassified and classified service, a record of all appointments and personnel actions shall be maintained by the commissioner of human resources, and such shall include current pertinent information as to the employee's name, address, social security number, date of employment, classification to which appointed, starting salary, salary advancements, date of separation and any other information deemed necessary by the department of human resources.

(b) When available, the commissioner shall, on a timely basis, furnish to departments such information as requested and as may be necessary for the departments to comply with local, state, regional and federal reporting requirements.

#### **Sec. 114-2. Standards of conduct prescribed; penalty for violation.**

(a) Any employee offering for election to the office of mayor, president of the city council or member of the city council shall resign from the employee's position with the city, and such resignation shall be effective as of the date of announcement of such offering or as of the date of filing as a candidate for office, whichever is earlier.

(b) If an employee of the city offers for an elective office, other than those permitted in subsection (a) of this section, and the employee desires a leave of absence or, in the opinion of the department head, the campaign for the office will conflict with the employee's duties or work hours, the employee shall take a leave of absence as provided by section 114-422.

(c) No employee shall offer for an elective office without having first filed a written notification with such employee's department head of the employee's intent to file as a candidate for elective office. Such notification shall state the office the employee intends to seek, the governmental jurisdiction of the office, the dates of filing for candidacy and the date of the election.

(d) Should such employee be elected to an office which the department head determines interferes with or affects the employee's duties or hours of city employment, a separation shall be required at a time to be determined by the department head prior to the employee's assumption of the elective office.

(e) No employee, official or person shall knowingly solicit any assessments, contributions or services for any political party or candidate from any employee in the civil service.

(f) Nothing in this section shall affect the right of the employee to hold membership or office in or support a political party and to vote as the employee chooses.

(g) For the purposes of this section only, a public elected official of the city shall not be considered an employee except for subsection (e) of this section. However, if any member or officer of a commission, council or board created by the city or the chair or officer of any neighborhood planning unit or an elected neighborhood planning unit committee member offers for election to the office of mayor, president of the city council or member of the city council, such member, officer or chair shall resign from such position with the city or with the neighborhood planning unit. Such resignation shall be effective as of the date of the public announcement of such offering or as of the date of the filing as a candidate for office, whichever is earlier.

(h) No person shall in any manner prevent or attempt to prevent the impartial execution of this chapter or policies or rules promulgated under this chapter.

(i) No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or valuable consideration for any appointment, proposed appointment, promotion or proposed promotion or any advantage in any position with the city.

(j) No person shall defeat, deceive or obstruct any person in such person's right of application, eligibility, certification or appointment under this chapter or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

(k) Employees of the civil service of the city shall be subject to the following rules and regulations concerning political activity:

(1) No officer or employee shall use official authority or influence for the purpose of interfering with or affecting the result of any election or the nomination for any office.

(2) Nothing in this section shall be construed to restrict the right of an employee to express privately the employee's opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings after working hours.

(3) All employees shall comply with all applicable provisions of the Federal Hatch Political Activities Act as amended by the Federal Election Campaign Act Amendments of 1974, and any subsequent amendments thereto.

(l) Any person who shall violate subsection (h), (i) or (j) of this section shall, for the period of five years, be ineligible for appointment to or employment in a position with the city, and any officer or employee who shall violate any such subsection shall be dismissed from any office or position held by such officer or employee.

**Secs. 114-3--114-25. Reserved.**

**ARTICLE II. COMPENSATION, PAYROLL DEDUCTIONS AND CHARITABLE CONTRIBUTIONS**

**DIVISION 1. GENERALLY**

**Sec. 114-26. Paymaster designated, duties.**

- (a) The chief financial officer is designated as paymaster of the city.
- (b) The duties of paymaster shall be to keep a record of the entire payroll of the city, pay all salaries to city employees and perform such other duties as may be prescribed. Payrolls and time sheets of all departments shall be prepared by the departments, respectively.

**Sec. 114-27. Withholding tax; federal and state taxes.**

- (a) The chief financial officer is directed to make the proper deductions from the wages or salaries of employees in accordance with the income tax laws enacted by the United States. It shall be the duty and responsibility of each department to furnish the chief financial officer a signed withholding exemption certificate, in such form and containing such information as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury by regulations prescribed, on each employee in the department and on each person subsequently employed. For a change of status, the employee, through the department head, is required to furnish the chief financial officer a new certificate not later than ten days after such change occurs. Failure to comply with this subsection shall subject the head of any department or any employee to removal from office by the mayor and council.
- (b) The chief financial officer is directed to make the proper deductions from the wages and salaries of employees in accordance with O.C.G.A. tit. 48, ch. 7, art. 5 (O.C.G.A. § 48-7-100 et seq.), as amended. It shall be the duty and responsibility of each department head to furnish the chief financial officer with a signed withholding exemption certificate, in such form and containing such information as the state revenue commissioner prescribes, on each employee in the department and on each person subsequently employed. For change of status, the employee, through the

department head, is required to furnish the chief financial officer a new certificate not later than ten days after such change occurs. Failure to comply with this subsection shall subject the head of any department or any employee to removal from office by the mayor and council.

**Sec. 114-28. Deduction of labor organization dues from salaries.**

(a) The chief financial officer is authorized and directed to deduct from the salary or wages of employees, who are members of an appropriate community of interest as determined by the commissioner of the department of human resources and who are not directors, department heads, or statutory supervisors, all who have the authority to hire, fire, discipline or effectively recommend such action, a specified sum of money as stated on the dues authorization card signed by each employee representing the monthly dues of the organization to which the employee belongs and such specified sum of money as may, from time to time, subsequently be certified by the financial secretary of the organization in accordance with the organization's bylaws. Each enrollment dues authorization card having a specified sum of money stated thereon which is in an amount less than that which is certified by the financial secretary shall remain valid for organizational certification so long as no withdrawal card has been filed with the chief financial officer. Enrollment dues authorization cards of employees becoming members of the organization shall be certified by the chief financial officer between the first and 15<sup>th</sup> days of the month subsequent to such employee becoming a member, by the president or secretary of the organization. No deduction shall be made until a written dues authorization card signed by the employee shall have been delivered to the chief financial officer. No such written dues authorization card shall be valid which has not been dated and which is not received by the chief financial officer within 60 calendar days after the date it was signed by the employee. All cards received by the chief financial officer shall be retained by the city.

(b) The chief financial officer shall, after deducting the cost to the city to implement such deduction of dues, remit the balance previously so collected to the secretary or president of the employee organization, together with a list of names of those employees from whom the dues were collected on the 15<sup>th</sup> and last business day of each month.

(c) For the purpose of this section, the term "employee organization" means any organization recognized by the council and approved by the mayor by ordinance. In addition to such approval, at the times of certification set forth in this section, any organization, including those already recognized by resolution, must have been designated as the organization of which the employee is a member, on the dues authorization card of such employee, by more than one-half of the total number of the following respective eligible employees:

- (1) Sworn personnel within the department of police;



(2) Sworn personnel within the department of fire; or

(3) Employees within the following departments, divisions and offices of the city combined; department of aviation, department of corrections; department of finance; department of law; department of fire; department of human resources; department of police; department of planning and community development; department of public works; department of watershed management; department of procurement; department of parks, recreation and cultural affairs; department of information technology; office of general services; office of constituent services; office of city internal auditor and their equivalent successor departments, divisions and offices within the city.

all of whom share a community of interest with respect to their hours of work, wages and other terms and conditions of employment. Should any city employee who signed a valid enrollment dues authorization card wish to withdraw or terminate the deduction of dues from such employee's wages or salary, such employee may do so in the months of January or July of each year by submitting in writing to the office of the chief financial officer a statement to that effect.

(d) The deduction of dues authorized in this section is conditioned upon the fact that any organization representing any employee or group of employees, any shop steward or any official of an organization or any of its members, individually or collectively, will not strike and will not approve or take part in any strike, sit-down, slow-down or any interference with the operation of the city by picketing, patrolling, demonstrating or any stoppage of work or other similar activities. Further, the deduction of dues is conditioned upon there being no campaigning or soliciting of membership on city property during working hours. Upon the occurrence of any of such actions or activities and upon a written determination by the mayor or the mayor's designee that such actions or activities are occurring, the deduction of dues from the salary or wages of the employees belonging to any such organization shall be automatically terminated by the chief financial officer, and recognition of that employee's organization shall be terminated.

(e) The dues deduction of an employee shall not be made if the salary or wages of an employee at any pay period, after making all deductions required by law and previously authorized by the employee, should not equal the amount of such dues. Thereafter, such deductions shall commence, non-retroactive, upon there remaining after such deductions an amount of such employee's salary or wages equal to such dues. The dues deduction of an employee shall terminate when, for suspension, sickness or any leave of absence, such employee should receive in any dues deduction pay period an amount of money less than such employee's normal and regular salary. Such dues deduction shall thereafter commence, non-retroactive, upon such employee receiving in

any dues deduction pay period such employee's normal and regular wages or salary.

(f) Any organization recognized as an employee organization as defined by subsection (c) of this section shall, not later than February 1, 2006, and every fourth February 1 thereafter, submit to the chief financial officer authorization cards signed by at least 50 percent, plus one of the total number of the eligible employees within the organization's respective community of interest, as designated in subsection (c) of this section.

If the total number of authorization cards submitted does not constitute the requisite 50 percent plus one, the chief financial officer shall certify to the city council and the affected employee organization the total number of cards which will be required in order for the organization to comply with this subsection; if the employee organization fails to submit the additional required authorization cards to the chief financial officer within 30 days from the date of such certification, both the deduction of union dues and the recognition of the employee organization provided for in this section shall be immediately terminated.

(g) Upon the failure of any employee organization described in subsection (c) of this section to submit dues authorization cards pursuant to subsection (f) of this section on or before the dates specified therein, both the deduction of union dues and the recognition of the employee organization shall be terminated.

**Sec. 114-29. Authority to deduct from salaries of employees to cover pledge to the Atlanta City Employees' Friendship Club, Inc.**

Subject to the policies, terms and conditions provided for in division 2 of this article, the chief financial officer is hereby authorized to deduct from the salaries or wages of each city employee such sums as may be authorized by such employee to cover a pledge made to the Atlanta City Employees' Friendship Club, Inc., and the chief financial officer is further authorized to pay such sums so deducted over to the Atlanta City Employees' Friendship Club, Inc.; provided, however, that such authority is expressly conditioned upon adherence by the Atlanta City Employees' Friendship Club, Inc., with the policies, terms and conditions set forth in division 2 of this article.

**Secs. 114-30--114-35. Reserved.**

**DIVISION 2. ANNUAL COMBINED CAMPAIGN FOR CHARITABLE CONTRIBUTIONS**

#### **Sec. 114-36. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Fundraising federation* or *federation* means a local or statewide fundraising federation with offices in the state and disbursing funds to ten or more organizations providing health or human welfare services. Eligible fundraising federations shall be placed on a list of such organizations certified by the friendship club as being eligible to receive contributions from city employees through payroll deduction in accordance with this division.

#### **Sec. 114-37. Creation; objectives.**

Beginning in March, 1995, and continuing in September, 1996, and each September thereafter, a single combined campaign for charitable contributions from city employees ("combined campaign") will be initiated by the Atlanta City Employees' Friendship Club, Inc. ("friendship club"). The combined campaign is a once-a-year drive allowing employees to give charitable contributions conveniently through payroll deduction to the friendship club, designating charitable organizations of their choice. The combined campaign guarantees maximum opportunity for fairness in the distribution of the donor's contributions and reinforces the donor's perception that needs in the community are being supported financially through a unified appeal. Specifically the combined campaign objectives will be to:

- (1) Provide the best opportunity for city employees to contribute to the organizations of their choice.
- (2) Create a fair and equitable opportunity for all approved organizations to solicit and receive support from employees, through the friendship club.
- (3) Assure a means of access to city employees, through the friendship club, that will assist in maximizing employee participation and giving.
- (4) Provide an effective campaign that encourages employees to make a generous contribution based upon free choice.
- (5) Provide each employee with an appropriate pledge form and campaign brochure that will be simple and easy to use and will offer information on the campaign and all the participating organizations.
- (6) Maintain the friendship club as the direct payroll deduction for employees, with the option of designating eligible organizations to which each employee wishes to make a contribution.

**Sec. 114-38. Eligibility requirements of fundraising federations.**

To be eligible to receive payroll deduction pursuant to this division, a federation and its member organizations and all friendship club fund recipients (except the Atlanta Employees Fund) must:

- (1) Be recognized by the Internal Revenue Service as a 501(c)(3) nonprofit organization;
- (2) Have an IRS Form 990 and an audited financial statement if annual income exceeds \$100,000.00;
- (3) Have administrative and fundraising expenses that do not exceed 25 percent of total support and revenue, unless the organization can demonstrate that its actual expenses are reasonable under all the circumstances in its case;
- (4) Be registered under the Georgia Charitable Solicitation Act of 1988, O.C.G.A. § 43-17-1 et seq.;
- (5) Be incorporated;
- (6) Provide services or funding that impacts health or human welfare on a local or statewide basis;
- (7) Present a proposal addressing funding priorities previously established in writing by the board of directors of the friendship club, which proposal must be approved by the board;
- (8) Be in compliance with all federal, state and local laws and ordinances; and
- (9) All recipients of payroll deduction funds under this division have a nondiscrimination policy consistent with the Charter and ordinances of the city.

**Sec. 114-39. Opportunity of fundraising federation to make presentation to board to demonstrate eligibility.**

At any time prior to January 16, 1995, and prior to April 30, 1996, and April 30 of each year thereafter, any fundraising federation which is invited to do so in writing by a city employee shall have an opportunity to make a presentation to the board of the friendship club, demonstrating its eligibility based on the criteria specified in section 114-38, to have its name added to a list of organizations eligible for solicitation of funds in the annual combined campaign, to be held beginning in March, 1995, and September of the following years. Such list of eligible organizations, which shall be renewed annually based on the criteria set forth in this division, shall be circulated to city employees at least once a year at a time to be determined by the friendship club board and shall be available to city employees at other times upon their request. Receipt of any funds from the combined campaign is contingent on a federation receiving a minimum of ten designations from city employees each year.

**Sec. 114-40. Providing written documentation of eligibility.**

A federation applying for participation in the city combined campaign must seek its eligibility by submitting written documentation for the criteria outlined in section 114-38 to the friendship club by November 30, 1995, and April 30 of each year thereafter. A federation need only submit one application on behalf of all its member groups each year but must include a signed, written statement certifying that its constituent organizations meet all of the eligibility requirements. An oral presentation shall also be made to the board of directors of the friendship club if required by the board.

**Sec. 114-41. Review of application by board.**

The friendship club board shall review the applications based on the criteria outlined in section 114-38 and notify each federation in writing of the action taken on its application by January 30, 1995, and by June 15 of each year thereafter.

**Sec. 114-42. Determination of eligibility; notification; right to appeal.**

The friendship club shall have the right to request any documentation needed from an applicant federation to certify its eligibility. If an applicant federation is deemed ineligible, the friendship club shall so notify the applicant federation and shall include in its notification reason for denial. Federations wishing to appeal a decision may, within 14 days from denial, submit to the board of directors of the friendship club a written appeal for eligibility reconsideration. The friendship club board shall have 14 days from receipt of an appeal letter to respond to the applicant federation. If a federation's appeal is denied, the federation may, within 20 days, appeal in writing to the city council, which may overrule the friendship club's denial by a majority vote of members present and voting, if the council determines that the applicant federation meets all of the criteria specified in section 114-38.

**Sec. 114-43. Duties of board of directors.**

The board of the friendship club shall oversee the organization of the annual combined campaign. The administrative and organized aspects of the combined campaign shall include the following responsibilities at a minimum:

- (1) Plan the combined campaign and provide clerical and administrative support.
- (2) Recommend and approve a written campaign budget.
- (3) Coordinate the production and distribution of all campaign materials and supplies.

a. Campaign materials shall include, but not be limited to, pledge cards, brochures, posters, and training materials. Participating federations shall be provided opportunity for input on all campaign promotional materials.

b. The logos of each participating federation will appear on all campaign materials.

c. The brochure will offer a detailed explanation of the combined campaign and will:

1. Provide a brief description of each of the federations and an approximately 25-word description of each member agency/organization participating in the combined campaign.

2. Define the friendship club and distinguish it from the federations.

d. The pledge card will provide an option to each city employee to pledge generally to the friendship club or to pledge to the friendship club and include a designation that such pledge will be passed on by the friendship club to an eligible fundraising federation. The pledge card shall also include a statement that administrative expenses are shared pro rata among the participating federations.

(4) Develop and provide campaign training and promotions. Prior to the commencement of the campaign, an orientation meeting shall be scheduled for those city employees acting as departmental coordinators and solicitors for the campaign. Each department or agency will have at least one coordinator responsible for all payroll deduction or direct funding solicitations.

(5) Reform the following financial duties:

a. Manage all campaign finances of cash and check contributions, payroll deduction, and distribution of undesignated and designated contributions.

b. Act as the central point for all campaign pledges.

c. Process all appropriate disbursements of campaign receipts in coordination with the city department of finance.

1. Initial disbursement to federations will be distributed by April 15 of each year.

2. All cash contributions will be included in the first payment.

3. Quarterly remittance will thereafter be made on a pro rata share of actual collections.

- d. Maintain the financial records regarding campaign receipts, deposits, distributions and expenses.
- e. Prepare and distribute campaign reports in accordance with schedules and requirements as mutually agreed upon.
- (6) Provide appropriate recognition to campaign contributors and workers.
- (7) Perform post-campaign evaluations in cooperation with departmental coordinators and make appropriate recommendations for subsequent years.
- (8) Other duties as required.

**Sec. 114-44. Administrative costs.**

- (a) The costs of the campaign and all other administrative costs will be shared by each participating federation pro rata with the friendship club measured by the proportion of total receipts from the combined campaign to total receipts by each participating federation, and such pro rata share of such costs may be deducted by the friendship club prior to distributing funds due to such federations pursuant to this division.
- (b) Any campaign administrative costs which are incurred by any participating federation will be the sole responsibility of such federation.
- (c) All costs of the campaign, including but not limited to materials, production and printing, pledge processing and employee time must be documented and accounted for in writing by the friendship club.

**Sec. 114-45. Authority of board to retain independent contractor and hire staff personnel; reimbursement.**

The board of the friendship club may retain an independent contractor or hire staff personnel sufficient to accomplish and comply with all of the policies, terms and conditions set forth in this division, and to perform such other duties as may be required by the board or by the council during the time leading up to and including the March 1995 combined campaign only. The total cost of such tasks shall not exceed \$50,000.00, and such costs shall be paid by the chief financial officer from an appropriate account. The friendship club shall reimburse the city for all payments made by the city pursuant to this section out of the proceeds of the payroll deductions made on behalf of the friendship club in 1995 and, if applicable, each year thereafter, and out of the pro rata cost deductions made by the friendship club pursuant to section 114-44(a) in 1995, and, if applicable, each year thereafter.

**Sec. 114-46. Compliance.**

Within 60 days of the adoption and approval of this division, the Atlanta City Employees' Friendship Club, Inc., a private nonprofit corporation, shall agree in writing to comply with all of the policies, terms and conditions of this division and shall amend its charter and bylaws so as to provide one member of its board from each and every department (to include offices thereof) of the city government, including without limitation the office of the mayor and the city council, each such member to be elected by a majority of the employees in each such department.

**Sec. 114-47. Agreement to comply with state law.**

Notwithstanding that the Atlanta City Employees' Friendship Club, Inc., may not be a public office or agency within the meaning of the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq., or the Georgia Open Meetings Act, O.C.G.A. § 50-14-1 et seq., or otherwise be subject to such acts, within 60 days of the adoption and approval of this division, the Atlanta City Employees' Friendship Club, Inc., shall agree in writing to voluntarily comply and abide by all of the provisions of the Georgia Open Records Act and the Georgia Open Meetings Act, as they now exist or as they may be amended.

**Sec. 114-48. Employee's ability to serve on board without forfeiting leave.**

Any city employee who is elected to the board of the Atlanta City Employees' Friendship Club, Inc., shall be afforded the opportunity by such employee's respective department to serve in such capacity without forfeiting any annual leave, sick leave or other leave, and such service shall be considered for all purposes as regular employee service.

**Secs. 114-49, 114-50. Reserved.**

**ARTICLE III. EQUAL EMPLOYMENT OPPORTUNITY\***

**Sec. 114-51. Statement of policy.**

It is the policy of the mayor and city council to provide equal employment opportunity in city government for all qualified persons; to prohibit discrimination in employment because of race, sex, sexual orientation, marital status, creed, color or national origin; and to promote the full realization of equal employment opportunity through a positive, continuing program in each department and agency of the city government. The policy of equal opportunity applies to every aspect of city employment, policy and practice.



**Sec. 114-52. Equal employment opportunity program for city departments and agencies.**

(a) *Duties of heads of departments and agencies.* The head of each executive department and agency shall establish and maintain a positive program of equal employment opportunity for all employees and applicants for employment.

(b) *Duties of mayor.* The mayor, upon the advice and guidance of the women's advisory council, civil service board and other individuals, groups or organizations as may be of assistance in realizing the objectives of this article, shall facilitate, supervise, monitor and evaluate achievement of a model program for equal employment opportunity in city government, including but not limited to the following objectives:

(1) Review job qualifications, specifications and descriptions to ensure that the requirements do not discriminate on the basis of race, color, religion, sex, sexual orientation, marital status or national origin and are a factual reflection of the needs of each job classification in city government.

(2) Review current in-service training programs to assess their effectiveness in meeting the needs of incumbent employees.

(3) Design training and education programs to focus on upgrading incumbent personnel and to afford women and other minority employees the opportunity to develop new and improved skills.

(4) Hold special meetings with supervisory personnel at all levels in each city department and agency to explain the intent of the EEO policy in this article and each individual's responsibility for its implementation.

(5) Inform local recruiting sources, at least annually, of the EEO policy of the city in this article and request them to describe their ability to recruit actively and make referrals of women and other minorities for all positions.

(6) Communicate to employees the existence of the city's EEO policy and program and how they can avail themselves of its benefits.

(c) *Report.* The mayor shall, annually, at the last council meeting in December of each year, submit to the council a written report on the implementation of the program for equal employment opportunity in city government.

**Secs. 114-53--114-75. Reserved.**

## ARTICLE IV. CIVIL SERVICE\*

### DIVISION 1. GENERALLY

#### Sec. 114-76. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administrative leave* means a paid leave of absence pending an investigation authorized by the appointing authority with concurrence of the commissioner of human resources.

*Annual increase* means a yearly progression through from the minimum to the maximum of the salary range and may be awarded subject to availability of funds and employee performance at a level of effective or better.

*Appointing authority* means the officer, commission, board or body having the power of appointment, employment or election to or removal from subordinate positions in any office, department, commission, board or institution; or any person or group of persons having the power by virtue of the constitution, statute or lawfully delegated authority to make appointments or employment to the positions in the city employment service. For the purpose of taking any disciplinary action or of filing any charges against any person in the classified service, the designation "appointing authority" includes any acting department head or other person designated by the proper authority to be in charge of any department in the absence, for any cause, of the regular appointing authority or department head.

*Appointing rule* means the selection for employment of an individual from a referral list certified to the appointing authority by the commissioner of human resources.

*Board* means the civil service board of the city.

*Certify, certification* means the act of the commissioner of human resources in supplying an appointing authority with the names of applicants who are eligible for appointment to the class and position for which certification is requested in the classified service.

*Classification (Class)* means:

- (1) A position or group of positions which have similar duties and responsibilities, require similar qualifications, can be designated by a single title indicative of the kind and nature of work and for which the same schedule of pay can be applied with equity;  
or

(2) A group of positions sufficiently similar as to duties performed; scope of discretion and responsibility; minimum requirements of training, experience or skill; and such other characteristics that the same title and the same range of compensation may be applied to each position in the group.

*Classification (class) specification* means a written document, which generally describes a class and includes a general statement of duties, competencies, knowledge, skills, and abilities, as well as the qualifications and guidelines for entrance into the kind of work described.

*Classification (class) title* means the official title used for all personnel and payroll processes. Working titles may be used for other purposes.

*Classified position* means a position in the classified service.

*Classified service/unclassified service* means position in the civil service as provided for in the Civil Service Code, Section 114-84.

*Commissioner* means the commissioner of human resources.

*Continuous service* means employment in the civil service which is uninterrupted. Time lost due to leaves of absence without pay, suspension or layoff shall not be considered as continuous service, except as provided in this article. Time lost under authorized paid leaves of absence shall be considered as continuous service.

*Demotion* means a change of employment to a position in a class which has a lower maximum salary limit than the class from which the assignment was made.

*Eligible* means a person who meets requirements for a position and whose name is on an employment eligible list.

*Eligible list* means a certified list of the names of persons with respect to classes of employment for which such persons have competed and are qualified to be appointed.

*Employee* means any person holding a position or employment with the city.

*Examinations* means methods used to determine eligibility of applicants for employment. Examinations may include but shall not be limited to job related written, oral, physical or performance tests; rating of training and experience; or any combination of these.

*Filled out-of-class* means an employee assigned to a classification title and job code different from the classification title and job code of the authorized position. An incumbent may only be assigned out-of-class at a pay grade equal to or lower than the pay grade of the authorized position.

*Grade change* means the reassignment of a class to a different salary grade upon approval by ordinance.

*Incumbent* means the person occupying a position.

*Layoff* means a separation of an employee from the employee's position which has been made necessary by lack of work or funds or for other reasons not related to fault, delinquency or misconduct on the part of the employee.

*Level* means the degree of responsibility, training, experience and ability required to fill specific positions in a series.

*Minimum qualifications* means the established requirements of education and experience, knowledge and skill needed to perform the duties and responsibilities of a position as established in the class specifications.

*Overtime* means time worked in excess of scheduled work periods as defined by the Fair Labor Standard Act (FLSA).

*Part-time employee* means an individual hired on a continuing basis, but who is scheduled to work less than the normal period for the position, or an individual hired on a continuing basis who is scheduled to work only a part of a workweek and to share the position with another individual hired for the same position to work the remaining part of the week.

*Pay and class plan* means the schedule of rates of pay assigned to each class title, the grouping of classes into appropriate categories and the assignment of special pay rules, approved by ordinance.

*Pay grade* means the range of pay assigned to a classification.

*Performance evaluation* means a periodic report prepared by the appointing authority relative to the work related conduct and performance of each employee.

*Position* means a group of current duties and responsibilities requiring the full-time employment of one person, the part-time employment of one person or the part-time employment of two or more persons.

*Position of trust* means authorized positions that require the incumbent or new hire who work with children, seniors, money or other financial transactions, public safety, or sensitive information of others.

*Probationary employee* means any employee appointed from an eligible list to a position in the classified service and who has not completed the six-month probationary period in a given class for appointment.

*Promotion* means a change of employment from a position of one class to a position of another class which has a higher maximum salary rate.

*Promotional examination* means an examination or a group of examinations for a certain class, admission to which is limited to regular employees in the classified service.

*Promotional list* means a list of persons who have been found qualified by a promotional examination for appointment to a particular class.

*Provisional employee* means an employee filling a position in the classified service without competition, pending the establishment of an eligible list. Provisional employees must be certified as meeting the established minimum qualifications for the position by the commissioner of human resources.

*Reclassification* means the reassignment of a position to a different class upon approval by ordinance.

*Regular employee* means a benefit earning employee who has been appointed to a permanent position in the civil service in accordance with this article and, if required, has satisfactorily completed a probationary period.

*Reemployment* means the reappointment of a person who was employed with the city, but voluntarily separated regular full- or part-time employment within three years.

*Regular Position* means a full-time or part-time position which is adopted by ordinance.

*Series* means the designation of a number of classes related to each other in terms of ascending or descending difficulties and responsibilities of work within the same occupational field.

*Special pay rule* means a salary adjustment applied to designated classifications as compensation for shift differential (D), education (E), pilot on a flight crew (F), flight observer on a flight crew (O) and other qualifying factors.

*Temporary employee* means an employee appointed for a special project or other work of a temporary or transitory nature, and meets the minimum qualifications.

*Transfer* means a change by an employee from one position in a class to another position of the same class or to another class involving the performance of similar duties and requiring essentially the same basic qualifications and responsibilities and having the same schedule of pay.

*Vacancy* means a position duly created for which funds have been appropriated and which is unoccupied.

#### **Sec. 114-77. General purpose.**

The general purpose of this article is to establish a system of sound personnel administration for the city that provides for the recruitment, selection, development and retention of an effective work force of capable, diligent and honest career employees. This system shall include policies for employee hiring and advancement, training, career development and safety, position classification and salary administration, effective utilization of personnel and employee performance evaluation, employee relations and the disposition of employee grievances, discipline, discharge and related activities. It shall be the purpose of this article to establish a system in which all personnel matters shall be determined solely on the basis of merit and qualifications, without regard to

race, color, sex, national origin, political affiliation, religion, sexual orientation or disability.

**Sec. 114-78. Applicability of article.**

This article shall apply to all positions in the classified civil service of the city and to all other positions of employment with the city where so indicated and where the context requires such interpretation.

**Sec. 114-79. Civil service board.**

(a) There shall be a civil service board, which shall be the official protector of the civil service system. The civil service board shall consist of five members, who shall be appointed by the mayor with the consent of the council and shall hold office for a term of three years.

(b) The Mayor shall be authorized to appoint up to two (2) ad hoc hearing officers who shall have the same power to conduct hearings and make final determinations and dispositions on appeals of adverse actions, and shall be compensated, by case and not by day, at the same rate as appointed civil service board members.

(c) Prior to commencement of service on the board and at least annually thereafter, each member will receive and attend training with the purpose of enhancing the board member's ability and consistency in performing the member's duties. Such training shall include applicable law and ordinances, procedural conduct of hearings, resolution of employment disputes, evidence and such other topics as may be deemed advisable.

(d) The civil service board shall be provided with administrative support by the city. Such staff shall be responsible to the civil service board and report to the administrative officer of the Board.

(e) The board shall conduct its business in the manner provided in Appendix III and shall perform the following functions:

(1) Provide advice and counsel to the mayor, the council, the commissioner of human resources, concerning the development, implementation and improvement of the civil service system.

(2) Hold hearings when requested by an employee or an appointing authority on final demotions, suspensions, dismissals or other such adverse actions with reference to the classified service and have power to make final determinations and dispositions in such matters. Hearings may also be held for sworn officers who hold the position of captain and any rank below that of captain in of the department of police and department of fire when such a hearing is requested. No officer or employee of the department of

police or department of fire who is in a probationary status of initial employment with the department shall be entitled to a hearing.

(3) Hold name clearing hearings for unclassified employees with retained rights who are subject to an adverse action. Such hearings shall follow usual board procedures, but shall only be held for the purpose of protecting the reputation of the employee. The board may not reverse or modify the adverse action but may submit recommendation to chief operating officer.

(4) Keep minutes of its meetings and such other record as it may deem necessary.

(5) Make investigations pertaining to personnel and administration requested by the mayor or the council or on its own motion.

(6) Establish guidelines for hearing any matters referred thereto by the officials responsible for personnel administration, employees and employee organizations or appointing authorities.

(7) Receive recommendations from the department of human resources and communicate to the mayor its official position with respect thereto, as necessary.

#### **Sec. 114-80. Administrative officer of civil service board.**

The commissioner of human resources, shall serve as administrative officer of the civil service board, and shall be responsible for planning the general administration of the civil service system and shall perform such other duties as may be assigned by the mayor.

#### **Sec. 114-81. Personnel problem or action not covered by article.**

If any personnel problem or personnel action which is not specifically covered by this article occurs, the mayor or the mayor's designee shall be authorized to resolve such problem or action through the application of this article and in keeping with its intent and the Charter.

#### **Sec. 114-82. Administration and enforcement.**

The commissioner of human resources shall administer and enforce this article, and shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this article and the Charter for the administration and enforcement of this article.

**Sec. 114-83. Cooperation with other civil service systems.**

In the interest of proper and efficient personnel administration, the facilitation of civil service employment mobility and the maximum utilization of available personnel, the department of human resources shall, where applicable, participate in cooperative, interjurisdictional recruiting, examining, certifying and training.

**Sec. 114-84. Unclassified and classified service.**

- (a) The civil service system shall be divided into the unclassified service and classified service.
- (b) The unclassified service shall consist of the following:
  - (1) Officers elected by the people and persons appointed to fill vacancies in such elective offices.
  - (2) Officers and employees specifically exempted by law.
  - (3) Members of boards, councils or special commissions appointed by the mayor for special purposes; members of boards, councils or commissions created by the council pursuant to section 3-401 of the Charter; and employees of such boards, councils and commissions, unless the council shall provide otherwise for such employees.
  - (4) All assistants and employees in the department of law.
  - (5) Any employee in the mayor's/executive offices unless said employee holds a classified status as of March 1, 1998.
  - (6) Election officials.
  - (7) Heads of departments appointed by the mayor and confirmed by the council, assistants reporting to such department heads, and heads of offices and agencies hired by the appointing authority.
  - (8) Sworn employees in the departments of police and fire.
  - (9) Employees of the judicial agencies and the offices of the internal auditor and ethics officer..
  - (10) All employees of the office of municipal clerk, the offices of councilmembers and the office of the council president.
  - (11) Any classified employee who accepts an unclassified position
  - (12) Any unclassified employee with retained rights who accepts an unclassified position.
  - (13) Any position funded by grant or other temporary funds.



(c) All positions in the classified service at pay grade 19 and above which are, or become, vacant on or after February 13, 1998, shall be transferred to the unclassified service. Any position in the classified service at pay grade 19 and above which is filled by a temporary employee shall be transferred to the unclassified service.

(d) The classified service shall include all other public officers and employees in the employment service. All appointments, employments, removals, promotions, transfers, layoffs, reinstatements, suspensions and changes in grade or title in the classified service shall be made and permitted only as prescribed by law or under this article and not otherwise.

#### **Sec. 114-85. Rules and regulations.**

(a) Civil service rules and regulations shall be proposed by the mayor and reviewed by the civil service board for the operation of the civil service system which shall provide for the following:

(1) The establishment of eligible registers for appointment and promotion;

(2) The certification, appointment and promotion of eligibles;

(3) A period of probation for appointment or promotion to be made permanent;

(4) Layoffs because of lack of funds or work or changes in duties or organization and the reemployment of persons who resign in good standing or are laid off without fault or delinquency on their part;

(5) The discharge, demotion or suspension of regular employees for cause and hearings and appeals in connection therewith; and

(6) Programs of employee training and development and safety and such other studies and programs as will be conducive to an efficient and successful operation of the civil service system.

(b) Such rules and regulations shall have the force and effect of law at such time as they are adopted by ordinance.

#### **Sec. 114-86. Extension of classified status.**

(a) This section shall constitute an orderly procedure for extending classified status to regular unclassified employees.

(b) In order to acquire the protection, rights and privileges, as provided within the classified service, an unclassified employee transferred to a position in the classified service must be certified. Such status shall be obtained by such employee in the following manner:

(1) An employee with 90 days or more of service, prior to classified service coverage, must be recommended for retention by the appointing authority on the basis that such employee has satisfactorily performed the duties of the position for a period of not less than 90 days prior to the effective date of the classified service coverage and must either possess the minimum qualifications of the position occupied or pass the appropriate qualifying examination for the position occupied.

(2) An employee with less than 90 days of service prior to classified service coverage must compete for the position presently occupied by such employee through an appropriate examination on an open-competitive basis.

**Sec. 114-87. Pay and classification plan.**

(a) For the purposes of this article, there shall be maintained at all times a formal system for classifying positions and compensating employees in the City of Atlanta civil service system known as the pay and classification plan.

(b) The pay and classification plan shall contain a listing of classifications and the salary structure. Each class of positions shall be assigned to an appropriate pay grade and may be eligible for special pay.

(c) Any amendment to the pay plan by changing a range of the pay grades or by moving a class of positions from one pay grade to another and any amendments to the position classification plan shall be approved by ordinance.

(d) All payrolls or other compensation for officers and employees in the classified service shall be checked periodically by the commissioner at such time as the commissioner deems appropriate for the proper administration of this article.

(e) No employee within the classified or unclassified service shall be placed on the payroll of the city until the employee has been properly certified by the commissioner.

**Secs. 114-88--114-100. Reserved.**

**DIVISION 2. CLASSIFICATION PLAN**

**Sec. 114-101. Objective and use.**

The classification plan shall constitute a systematic arrangement and inventory of positions in the civil service whereby positions shall be grouped into

classes indicative of the range of duties, responsibilities and level of work performed. The plan shall be utilized in order to provide a systematic salary structure which shall be commensurate with the duties of the positions established while being consistent with the fiscal integrity of the city. The classification plan shall be based on job analysis and maintained on a current basis.

#### **Sec. 114-102. Contents.**

The classification plan in civil service shall consist of the following elements:

- (1) A grouping of positions into classes so that each position in a class shall require basically the same training, competencies, experience and/or education and be of relative value deserving of the same salary range.
- (2) A class title which shall be indicative of the work of the class and any special pay rules which may apply. Such title shall be used for administrative purposes in connection with payroll, budget and other financial and personnel forms and records. No person shall be appointed or promoted to any position in the civil service unless such position possesses a class title in the pay and classification plan.
- (3) A written specification for each classification which shall contain a statement describing the nature of the work; the essential functions of the class; examples of typical tasks found in the class; requirements of the class with respect to the minimum necessary knowledge, skills, training, abilities and experience; and any special qualifications and competencies necessary for entrance into the class.

#### **Sec. 114-103. Administration of plan.**

The commissioner of human resources shall have the primary responsibility for the administration and maintenance of the classification plan in civil service. The commissioner of human resources may request assistance from other officials and may delegate authority to staff members of department of human resources in carrying out the responsibility. The commissioner of human resources shall periodically review the classification of positions by utilizing job analysis and, as needed, recommend appropriate amendments to the classification plan, such as new classes, the revisions of existing classes, the removal of existing classes from the plan that are no longer required, etc.

#### **Sec. 114-104. Allocation of position; creation of classes.**

Under the civil service classification plan, the commissioner of human resources, after consulting with the department head involved, shall recommend the assignment of a position to one of the classes in the classification plan. If a suitable class does not exist, the commissioner of human resources shall recommend the establishment of a new class and, after the adoption of the new class, shall recommend the assignment of the position to such classification. The establishment of a new position shall not be completed until the commissioner of human resources has approved the classification specification covering the duties, responsibilities and competencies of the proposed position.

#### **Sec. 114-105. Allocation reviews.**

(a) If a department head or an employee has reason to believe that any position in such department head's department has been improperly allocated, such department head or employee may request in writing that the commissioner of human resources review the allocation of the position.

(b) The commissioner of human resources shall review such position by having a position classification questionnaire completed by the incumbent, by the supervisor of the position or by the department head. A field study or onsite job audit shall also be made, if deemed appropriate. The commissioner of human resources shall, after considering all of the information obtained, recommend the questioned position be placed in another class or remain in its present class. Recommended changes shall be reviewed by the department of finance for budgetary and financial implications, and the recommendations shall be made to the chief operations officer. Changes requiring an increase in budget allocation must be adopted by ordinance.

#### **Sec. 114-106. Reclassification of positions.**

(a) Established positions in the civil service may be changed from one class to another where the following conditions are found to exist:

(1) Significant changes have occurred in the actual duties and responsibilities.

(2) Such changes in duties and responsibilities are of a permanent nature.

(3) There are new or added elements in the job, rather than changes in the performance of the individual.

(b) Reclassifications shall not be effected where the following conditions are found to exist:

- (1) The added duties and responsibilities are minor in nature and would be a logical function of the class.
  - (2) The added duties and responsibilities are to be performed for a temporary period only.
  - (3) The primary purpose of the reclassification would be to raise the employee's salary.
- (c) All such reclassifications shall be subject to review by the department of finance for budgetary and financial implications. If the action results in an increase in budget, approval is required by ordinance.
- (d) If reclassification of a position should result in the creation of a position in a class possessing a higher grade than that of the original classification, such change of position shall be considered a promotion. The promotional vacancy shall be filled as provided in this article, and the incumbent shall be given the opportunity to compete for the position. Should the incumbent fail the competitive, promotional examination or for some other valid reason not be promoted to fill the vacancy, the commissioner of human resources, with the approval of the employee's department head, may allow the employee to remain in the original position until such employee can, after passing an appropriate examination, be transferred to the same or another class of employment in the same or another department in which a vacancy shall exist. If no such vacancy should exist or if such transfer cannot for good reason be effected, the commissioner of human resources, with the approval of the employee's department head in accordance with this article, may lay off such incumbent or invoke a non-disciplinary demotion to a lower existing vacancy. No examination shall be required if the demotion is made to a lower related classification.
- (e) If reclassification of a position should result in the creation of a position in another class possessing the same pay grade as that of the original classification, the position, if vacant, shall be filled as provided in this article. Should there be an incumbent in the position, the incumbent employee shall receive a corresponding change in title without examination, provided that the reclassified position is in the same line and character of work and involves the same basic duties, responsibilities and skills. The incumbent employee of the position so reclassified, shall maintain the same pay grade and salary. Otherwise, the incumbent must pass an appropriate noncompetitive examination in order to continue employment in the reclassified position. If the incumbent employee fails to qualify for the reclassified position or for some other valid reason is not appointed to fill the vacancy, such employee receive a non-disciplinary demotion, as provided for in Section 114-128.(f) If reclassification of a position should result in the creation of a position of a lower class and pay, the incumbent of the position being reclassified shall be notified, and every effort shall be made to transfer the employee to another classified

position, which would support the incumbent's classification and level and for which the incumbent would qualify. If such transfer or reassignment cannot be effected, the incumbent shall receive a non-disciplinary demotion, as provided for in Section 114-128.

(g) In all cases where a layoff or reclassification downward occurs as a result of the reclassification of a position, the name of the employee affected by the layoff or demotion shall be entered on a on a priority placement register.

#### **Sec. 114-107. Maintenance of plan.**

(a) Under this division, to fill a vacancy, a position description shall be completed by the applicable department head and shall be submitted to the commissioner of human resources for a review. of the allocation of the position. The commissioner of human resources may waive such requirement upon determination that no material changes have occurred.

(b) Each time a department or office of the department is permanently or substantially reorganized, the department head shall submit to the commissioner of human resources new class specifications for all affected positions and accompanying organizational chart.

(c) The commissioner of human resources may require department heads and office directors or other employees to submit position descriptions on a periodic basis or at any time the commissioner of human resources shall have reason to believe there has been a change in the duties and responsibilities of one or more positions.

(d) Upon a new class being established, a class specification shall be written and incorporated in the existing classification plan. The class title shall be added to the schematic list of titles. Any class which may be abolished shall be deleted from the classification plan by removing the class title from the schematic list of titles.

(e) Once during every year the commissioner of human resources shall conduct a general review of the classification plan.

#### **Sec. 114-108. Interpretation of class specifications.**

Class specifications are descriptive and not necessarily inclusive of all duties performed. The use of a particular description with respect to duties, qualifications or other factors shall not be held to exclude others of similar kind or quality. Such specifications are intended to indicate the kinds of positions which shall be allocated to the classes established. In a series of classes, such as the police classes, the specifications for all classes should be reviewed as a unit.

**Sec. 114-109. Official copy of plan.**

The commissioner of human resources and the municipal clerk shall maintain an official copy of the civil service classification plan. An official copy shall contain a schematic list of class titles with class codes, the salary schedules and all amendments thereto. A copy of the official plan shall be made available for inspection by the public during normal business hours.

**Secs. 114-110--114-119. Reserved.**

**DIVISION 3. PAY PLAN**

**Sec. 114-120. Compensation Committee.**

There shall be an administrative board known as the compensation committee comprised of the chief operating officer, chief financial officer and the commissioner of human resources. The committee shall review personnel transactions as provided for herein and other transactions as deemed appropriate by the commissioner of human resources.

**Sec. 114-121. Compensation Philosophy.**

The City of Atlanta shall establish and maintain a total rewards system, including wages, salaries, benefits and incentives to attract, retain, develop and value high quality employees at all levels of city government. Such compensation system shall include a pay plan that is published and is directly related to the classification plan. Said compensation system shall support the city's strategies, objectives, and shall be within fiscal limits of the city budget. The compensation program shall include the following principles:

- (a) Compensation shall be applied in balance with fairness and equitable treatment of all employees regardless of race, age, gender, disability or sexual orientation, and shall be in accordance with equal employment opportunity (EEO) regulations.
- (b) Pay plans shall be as competitive as practicable with equity between internal and external peers in like job families, and shall reflect the specific labor markets from which the jobs compete for top talent.
- (c) Minimum pay shall be set to assure that regular employees will have the opportunity to earn an annual salary consistent with the city's minimum wage (city's prevailing living wage), and all pay plans may be adjusted for cost-of-living changes, as determined by the CPI-U-Atlanta, unless specifically waived or modified by council ordinance. The council will prepare and adopt specific standards under which the council will waive the 100 percent COLA as determined by CPU-U-Atlanta.

- (d) Pay plans shall be as simple as practical to assure understanding by employees and candidates.
- (e) Every five years, or more frequently when so determined, the commissioner of human resources shall assess the need to conduct a market study of benchmark positions to maintain a competitive posture; and shall propose a plan of action, if needed, to bring any positions or classifications into competitive alignment.
- (f) Pay and incentives shall be based on performance, and no employee shall be guaranteed compensation just for adding another year to organizational service.

#### **Sec. 114-122. Composition.**

The pay plan shall set forth the salaries or wages of all classes within the classification plan including minimum, midpoint, and maximum salaries.

#### **Sec. 114-123. Adoption and amendment of the pay plan.**

- (a) The mayor and council shall establish by ordinance a pay plan for all classes of positions. This plan shall consist of a series of pay grades with minimum, midpoint and maximum salaries and may be amended by ordinance, subject to the limitations contained in the charter relating to the period during which salary or wage increases may be granted.
- (b) The commissioner of human resources shall recommend to the mayor and council the assignment of each class to a salary grade, consistent with the classification plan.
- (c) Amendment to the pay plan by changing a grade or grades or by moving a class from one salary grade to another shall be recommended by the commissioner of human resources and approved by ordinance. The mayor and council may amend the plan notwithstanding the recommendations of the commissioner. Until the adoption of a new plan as required by this section, amendments or changes to the pay plans now in effect shall be accomplished in the manner prescribed above.

#### **Sec. 114-124. Application.**

All persons employed by the city shall be paid the salaries or wages as established by the pay plan for the specific job classifications to which the employee is assigned. This may not be classification from which the position is allocated.



**Sec. 114-125. New appointments and starting rates.**

(a) Except as hereinafter set forth, and except as may be otherwise provided in these rules and regulations, every person who shall be appointed or elected to any position of regular or part-time employment shall be employed at a salary or wage equal to the minimum amount set forth for the particular classification. Funding for positions must be within the existing budget allocations of the department employing the individual, or otherwise provided by ordinance.

(b) Any exception to the foregoing shall be requested by the appointing authority and approved as set forth below.

(1) Starting salaries up to the midpoint of the assigned pay grade shall be approved by the department head.

(2) Starting salaries above the midpoint of the assigned pay grade shall require a recommendation from the commissioner of human resources and approval by the compensation committee.

(3) The Mayor shall have authority to hire executive officers, department heads, deputies and equivalent up to the maximum salary of the pay grade.

(4) The president of city council and city council shall have the authority to hire their respective agency heads up to the maximum salary of the pay grade.

(5) The governing boards of the city including the city internal auditor and ethics officer shall have the authority to hire up to the maximum salary of the pay grade.

(c) Any person who shall be appointed to a position of police officer, firefighter or corrections officer shall be employed at a salary or wage equal to the minimum amount set forth for the particular classification, except a newly appointed police officer, firefighter or corrections officer with prior experience as a police officer, firefighter or corrections officer with another nonmilitary governmental entity may be eligible for additional pay for each year of experience as a police officer, firefighter or corrections officer, up to five years of experience. Eligibility under this section shall be conditioned on experience with a governmental entity with equivalent employment standards and practices as the department of police, fire, or corrections. This determination shall be made by the chief of the respective department.

**Sec. 114-126. Annual increases.**

(a) Each regular employee may receive a salary increase, which shall be based upon performance, and paid once annually for all employees on

an effective date authorized by the chief financial officer in conjunction with the commissioner of human resources. To receive such an increase, an employee must attain an evaluation rating of effective or better. If such employee receives a rating of "needs improvement", such employee shall become ineligible for the annual increase and shall remain ineligible for the period in which the "needs improvement" remains. An employee who earns an "effective" performance rating at the end of the improvement period shall be eligible for the annual increase, which shall not be retroactive for the period of "needs improvement" rating. Any employee who receives "unacceptable" rating shall be ineligible for the annual increase until after the next evaluation period, provided an effective performance rating is received.

(b) Newly hired employees may be eligible for a partial salary increase equal to half the value of the effective level if they meet all of the following three conditions by the end of the annual evaluation period: 1) completion of 6 months paid service, 2) successful completion of probation, if subject to a probationary period, and 3) achievement of effective or higher performance evaluation rating. Thereafter, once an employee completes each calendar year of paid service and receives an effective or better rating, such employee may receive a salary increase on the authorized effective date until the employee advances to the maximum salary of the assigned pay grade. Authorized leave with pay shall be credited toward such service. If all or any portion of the annual increase will result in said employee exceeding the maximum of the pay grade, the portion of the increase which exceeds the maximum pay grade may be paid to the employee as a lump sum, one time payment and will not increase the employee's base salary.

(c) No salary increase shall be awarded to an eligible employee in any year until after the annual operating budget, containing funds for such increases, is adopted by ordinance.

#### **Sec. 114-127. Increase in compensation upon promotion.**

Upon an employee being promoted to a position in a higher class, such employee's salary or wage shall be increased no less than five percent (5%) of the current salary or the minimum of the new grade, whichever is greater. If such increase exceeds the maximum of the new grade, the employee shall receive the maximum salary of the new grade. An increase of ten percent (10%) or more shall be approved by the compensation committee except when necessary to bring an employee's salary to the minimum of the new pay grade. No new salary shall exceed the maximum of the new salary grade. Upon promotion, a new probationary period shall commence for employees subject to a probationary period.

**Sec. 114-128. Compensation on demotion.**

(a) Disciplinary Demotion. Upon an employee's demotion to a position in a lower class for disciplinary purposes, the employee shall be compensated in the lower grade at the same percentage of midpoint in the current grade applied to the lower grade or step if applicable. In no case shall the salary of the lower grade exceed the maximum. An employee demoted to a lower or previously held grade, shall not have a salary reduction below the highest pay rate earned in a lower grade.

(b) Non-disciplinary Demotion. Upon an employee's demotion to a position in a lower class for non-disciplinary purposes, the employee shall be compensated in the lower grade at the same salary, provided that the employee has been in the position for one year. In the event that such salary does not exist, the employee shall be compensated at a salary closest to but more than the employee's current salary. If the employee's salary is above the maximum of the pay grade for the lower class, then the employee will receive the maximum salary of the lower grade. An employee demoted to a previously held grade or lower, shall not have a salary reduction below the highest pay rate earned in a lower grade.

**Sec. 114-129. Compensation on reclassification.**

(a) Reclassification upward. An employee in a position that is reclassified to a class in a higher grade shall be compensated as prescribed in Section 114-127, compensation upon promotion.

(b) Reclassification downward. Upon an employee's position being reclassified to a class in a lower pay grade, such employee shall be compensated in accordance with Section 114-128 (b), non-disciplinary demotion and shall be eligible to receive salary increases up to the maximum salary of the lower grade.

**Sec. 114-130. Compensation upon reemployment.**

A former employee reemployed under the Civil Service Code, Section 114-363, reemployment, to a position in the civil service may be credited with all former service, for purposes of establishing the employee's starting salary, seniority, and annual (vacation) leave accrual rate, at the recommendation of the appointing authority, and approval of the commissioner of human resources. The appointing authority may compensate a reemployed employee in the same classification or grade at the salary at time of separation, or higher if authorization is provided. If reemployed in a classification higher than that held at separation, the salary is established by the appointing authority, within the authorized level. If reemployed in a lower classification, compensation may be at the salary last held prior to separation provided it does not exceed the maximum of the lower grade.

**Sec. 114-131. Compensation for part-time employment.**

Upon the employment of a person on a part-time basis, such person shall receive a salary or wage based upon the time actually employed as related to the regular work period for salary or wage purposes.

**Sec. 114-132. Transfers.**

Upon an employee's transfer to another department while retaining the same job classification, such transfer shall not change or affect the salary or wage being received by the employee.

**Sec. 114-133. Overtime.**

(a) The head of the finance department shall pay employees for overtime work in accordance with the Fair Labor Standards Act (FLSA) and other applicable rules and regulation.

(b) Employees within each department who normally perform the same type of work shall receive equal opportunity for overtime work.

**Sec. 114-134. Compensation for temporary work at a higher classification.**

An employee shall not receive an increase in salary or wages upon being required to work in a higher position on a temporary, incidental, or emergency basis, for a period of time of 30 work days or less. Upon an employee being required to perform the duties of a higher position for a period of time in excess of 30 work days, such employee shall be given an emergency appointment to the higher position and shall receive the appropriate salary or wages of the higher classification. At the conclusion of such assignment, the wages or salary of the employee shall revert to that which such employee was receiving prior to the employee performing the duties in the higher classification. The service of an employee in a higher classification, as above provided, shall not affect the eligibility of the employee for normal increases.

**Sec. 114-135. Pay periods.**

All employees of the city shall be paid by check or direct deposit on a regular pay period basis, as adopted by ordinance.

**Sec. 114-136. Compensation upon grade change for a classification.**

(a) Upon the salary grade for a given class being increased to a higher grade, each employee in the class shall be compensated as set forth in Section 114-127, increase in compensation upon promotion.

(b) Upon the salary grade for a given class being decreased to a lower grade, each employee in the class shall be compensated as set forth in section 114-128(b), compensation on demotion, non-disciplinary demotion.

**Sec. 114-137. Compensation upon reduction in force.**

Upon an employee's reassignment to a position in a lower pay grade as a result of a reduction in force, such employee shall be compensated in accordance with section 114-128(b), compensation on non-disciplinary demotion.

**Sec. 114-138. Payment of relocation expenses.**

A department head may request authorization to pay a newly hired executive or managerial employee's relocation expenses associated with a move from another state, in an amount not to exceed ten percent of the maximum salary authorized for the position. The chief operation officer, the chief financial officer and the commissioner of human resources must approve such relocation expense reimbursement. Relocation expenses as provided herein shall only be paid to newly hired persons who establish domicile within the corporate boundaries of the city.

**Secs. 114-139 Retention bonus**

Sworn police officers are eligible for a \$3,000.00 retention incentive payment on their fifth anniversary as a sworn police officer with the city. Officers who have attained five or more years of service prior to the effective date of this subsection [January 1, 2000] shall not be eligible to receive this payment.

(1) Officers who apply for the retention incentive payment must be in good standing, have a current "satisfactory", "effective" or higher evaluation and must execute an agreement to remain with the city's police department for an additional three years.

(2) An officer who has received a retention incentive payment and voluntarily or involuntarily leaves the employment of the police department prior to completion of three years following such agreement shall be responsible for repayment as outlined below:

- a. Leaves within the first year after the date of the agreement; repay \$3,000.00
- b. Leaves after the first year but prior to the end of the second year after the date of the agreement; repay \$2,000.00
- c. Leaves after the second year but prior to the end of the third year after the date of the agreement; repay \$1,000.00

(3) Should the officer fail or refuse to remit the payment as set forth in "(2)" above, such funds may be withheld or deducted from the officer's pension refund as provided in section 6-222(s) of the Related Laws section of the Charter and Code of the city.

**Secs. 114-140--114-150. Reserved.**

#### **DIVISION 4. CERTIFICATION OF PAYROLLS**

##### **Sec. 114-151. Payroll changes.**

No payroll change in the civil service shall take effect until appropriate documentation and approval is received by commissioner of human resources.

##### **Sec. 114-152. Review of payrolls.**

(a) The commissioner of human resources shall be supplied with the necessary payroll data and any other information necessary in order to examine names, salaries, dates of appointment, etc., so as to enable the commissioner of human resources to determine that each employee on a given payroll has been properly appointed and that all actions listed have been taken in accordance with this article.

(b) The chief financial officer shall strike from the payroll the name of any person upon detection of an irregularity with respect to such person and shall notify the disbursing officer and the department head involved.

(c) After the chief financial officer has examined a given payroll, corrected irregularities and determined that all employees contained thereon have been appointed in accordance with this article, the payroll data shall be transmitted to the department of finance.

##### **Sec. 114-153. Recovery of salaries improperly paid.**

Any person, officer or employee not appointed in accordance with this article or with pertinent ordinances of the city and who shall receive the payment of salary shall be liable to the city for the repayment of such amounts received. The salary of any employee which has been incorrectly computed shall be recomputed to the correct amount, and any overpayment from such incorrect computation shall be repaid by the employee over a period of time determined by the chief financial officer and any underpayment from such incorrect computation shall be paid to such employee on the next regular pay period following such correct computation.

**Secs. 114-154--114-165. Reserved.**

**DIVISION 5. EQUAL OPPORTUNITY AND NONDISCRIMINATION\***

**Sec. 114-166. Policy.**

(a) It shall be the policy of the city to guarantee equal opportunity to all applicants and to all employees. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline or any other aspect of personnel administration because of political or religious opinions or affiliations or because of race, color, religion, age, disability, sex, sexual orientation and national origin, or other nonmerit factors shall be prohibited. Discrimination on the basis of age, sex or disability shall be prohibited, except where specific age, sex or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration.

(b) The personnel operations, this article and other civil service rules and regulations shall be administered in such manner as to comply fully with title VII of the Civil Rights Act of 1964, as amended the Equal Opportunity Act of 1972 and the Age Discrimination in Employment Act of 1967.

(c) All city departments, agencies and offices shall make reasonable accommodations to facilitate the gainful employment of otherwise qualified persons with disabilities pursuant to federal statutes, and other city regulations.

(d) It shall further be the policy of the city, when disabled applicants are available for employment, to review the vacant positions in conjunction with the department of human resources to determine the feasibility of restructuring those jobs to accommodate disabled job prospects. Persons with authority to hire shall be responsible for providing reasonable accommodations to employ the disabled, including job altering, if necessary, reassigning duties and responsibilities and making physical modifications to facilities, equipment and the job station.

**Sec. 114-167. Publicity.**

The city personnel policy shall make available information about job opportunities and a continuing program shall be conducted to make the equal employment practices of the city well known.

**Sec. 114-168. Affirmative action.**

Equal employment opportunity shall be ensured through affirmative action initiatives. The diversity manager shall be responsible for overall administration of affirmative action initiatives and shall report to the commissioner of human resources.

**Sec. 114-169. Appeals based on alleged discrimination.**

Any applicant or employee alleging discrimination in any personnel action shall have the right to consult with the equal employment opportunity coordinator of such employee's department or of the applicant's proposed department and with the diversity manager.

**Secs. 114-170--114-180. Reserved.**

**DIVISION 6. RECRUITMENT AND JOB APPLICATIONS**

**Sec. 114-181. Recruitment.**

(a) Recruitment of candidates for positions in the civil service shall be carried out through appropriate media on a timely basis so as to ensure that all segments of the public have the opportunity to apply and be considered for such positions.

(b) Announcements of vacant positions and vacancy lists may be provided to media outlets, including those known to reach minority groups, with a request for publicity based on public service. Vacancy lists and announcements may also be furnished to the state employment services.

(c) Applicants shall be recruited on the basis of the training and experience requirements as set forth in the class specifications.

(d) All publicity shall indicate that the city is an equal opportunity employer.

(e) Individuals shall be recruited from a geographic area as wide as is necessary to ensure obtaining the best qualified candidates for the various types of positions.

**Sec. 114-182. Announcement of vacant positions.**

(a) All vacancies in the classified service not being filled by transfer or reemployment shall be publicized by posting announcements in the department of human resources, on official department bulletin boards and in other places and by such other means as the commissioner of



human resources may deem advisable. Such announcements shall specify the following:

- (1) Class title and salary of the position to be filled;
- (2) Qualification requirements;
- (3) Manner of making application;
- (4) Opening and closing date for receipt of application;
- (5) Notice of written or oral examinations if required for the positions; and
- (6) Such other pertinent information as the commissioner of human resources may determine.

(b) When there is an urgent need for eligible candidates and past experience or knowledge of labor market conditions indicates a probable scarcity of eligible candidates, applicants may be examined and certified as received, provided that all qualified persons applying have the opportunity for consideration for appointment. Notice of continuous announcements shall be posted on the appropriate bulletin boards and advertised periodically.

#### **Sec. 114-183. Filing application.**

- (a) All applications for positions in the civil service shall be made in a standard format prescribed by the commissioner of human resources and within the time limit established in the announcement. Such format may detail training, experience and other pertinent information. As a result of a single application, a candidate may be considered for all classes of positions for which such candidate is qualified.
- (b) All applicants shall attest to the truth of all statements contained in the application form.
- (c) No individual shall be denied the right of filing an application for employment in the city civil service.

#### **Sec. 114-184. Employment requirements.**

- (a) All persons hired into positions in the civil service shall meet the minimum qualification requirements as listed in the classification specification or otherwise determined by the commissioner of human resources. Such requirements may include but shall not be limited to the following factors: experience, education and physical condition where physical requirements constitute a bona fide occupational qualification.
- (b) For education to be considered, accreditation must be recognized by the Southern Association of Colleges and Schools, American Council on Education or other governmental accrediting agency.

(c) Applicants appointed to sworn public safety positions shall be required, as a condition of employment, to sign a wavier that allows criminal background checks every two years without reasonable suspicion.

(d) For positions of trust a criminal background check and credit history may be required.

**Sec. 114-185. Fingerprinting and physical examination required of prospective officers and employees.**

No person shall be eligible to become an officer or employee of the city, other than a temporary employee, until such person has, if requested by the city, submitted to fingerprinting and has been examined as to physical fitness. This section, however, shall not apply to elected officials and members of various boards and commissions.

**Sec. 114-186. Rejection of applications.**

(a) The commissioner of human resources may reject any application or applicant for the civil service, upon determining that any one or more of the following conditions exist:

(1) The application was not received on or before the closing date established for receiving applications.

(2) The application was incomplete or not filed in the prescribed format.

(3) The applicant did not possess one or more of the requirements as specified in the public announcement.

(4) The applicant is physically or mentally unfit to perform the required duties of the positions to which the applicant seeks employment.

(5) The applicant tested positive for illegal substances or otherwise demonstrates excessive current use of alcohol.

(6) The applicant has made a false statement of a material fact, perpetrated a fraud or attempted to deceive in the application of the applicant or in attempting to secure appointment.

(7) The applicant was previously employed by the city and was dismissed for cause, resigned not in good standing, resigned while under investigation for city, state or federal law violations, or is not otherwise eligible for reemployment by the city.

(8) The applicant failed to meet the hiring criteria of applicable employment laws, other such regulations.

- (b) Whenever an application or an applicant is rejected, notice of such rejection and the reason therefore shall be, upon request, furnished to the applicant by the commissioner of human resources.

**Sec. 114-187. Postponement or cancellation of examinations.**

Any examination may be postponed or canceled at the direction of the commissioner of human resources. Notification of the postponement or cancellation and the reasons for the action shall be provided.

**Sec. 114-188. Preemployment inquiries.**

- (a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Arrest records* means records of arrest for a crime not followed by a conviction.

*Conviction* means a conviction for a felony or two or more misdemeanors for which a jail sentence may be imposed.

*Crime* means a felony or two or more misdemeanors for which a jail sentence may be imposed.

*Criminal records* means records of a conviction for a felony or two or more misdemeanors for which a jail sentence may be imposed.

*Employment History* means a chronological listing of work history that is verifiable and shall include employer, dates of employment, job title, duties and responsibilities.

*Job related and job relatedness* mean that relationship which reasonably can be inferred to exist between a specific crime and a particular job because of:

- (1) The nature and seriousness of the crime for which the individual was convicted;
- (2) The relationship of the crime to the ability, capacity and fitness reasonably required to perform the duties and discharge the responsibilities of the job;
- (3) The increased opportunity which such a job will afford for commission of the same or similar criminal behavior;
- (4) The age of the applicant at the commission of the crime, along with the length of time between conviction and job application; and
- (5) Recent employment records and other evidence of rehabilitation.

(b) A fingerprint record may be required of applicants for the civil service in order to determine whether an applicant possesses a criminal record.

(c) Past arrest records shall not constitute the sole basis for a refusal to employ an applicant.

(d) Criminal records of conviction may be used as a basis for refusal to employ where there exists a manifest job relatedness between a crime and a position sought.

(e) Applicants for the employment within the departments of police, fire and corrections shall be excluded from subsections (c) and (d) of this section.

(f) The commissioner of human resources may reject any application or applicant where such applicant has been convicted of a crime which is job related to the position of employment sought. Applicants having been convicted of other crimes will be considered on an individual basis, taking into consideration the position involved, the crime for which convicted and evidence of rehabilitation.

#### **Sec. 114-189. Physical examinations.**

(a) Any prospective employee for the civil service shall be required to undergo a physical examination, which shall include a test for illegal drugs, by an examining physician to be approved by the commissioner of human resources. Temporary employees may be required to undergo such physical examination at the discretion of the appointing authority.

(b) Prospective employees hired in a temporary position shall be required to undergo a test for illegal drugs by an examining physician to be approved by the commissioner of human resources. If the initial results are positive, a second test, using other test procedures with a higher incidence of reliability, will be conducted. A test result will not be considered positive for the purposes of this section unless both types of tests result in positive readings for drug use.

#### **Sec. 114-190. Supervision of or by family member (Nepotism).**

No person shall be employed in a position in the civil service in which such person directly supervises or is directly supervised by a member of such person's immediate family. The term "immediate family" includes father, mother, son, daughter, brother, sister, spouse, in-laws or domestic partner.

#### **Secs. 114-191--114-200. Reserved.**

## **DIVISION 7. EXAMINATIONS\***

### ***Subdivision I. General Provisions***

#### **Sec. 114-201. Policy.**

Selection for entrance to the classified service through open competition shall be the policy of the city. The selection process will maximize reliability, objectivity and validity through a practical assessment of applicant attributes necessary for successful job performance and career development. To facilitate employment of disadvantaged and disabled persons in aide or similar positions, competition may be limited to such individuals. Appointments to the classified service shall be made on the basis of merit by selection from among the highest available eligibles on appropriate registers. When, in the best interest of the city, it is determined to fill a position by promotion, consideration will be given to the eligible regular employees in the department or in the classified service, and the selection will be based upon demonstrated capacity, quality and length of service.

#### **Sec. 114-202. Open competitive examinations.**

Open competitive examinations for initial appointments to the classified service shall be prepared and conducted by or under the direction of the commissioner of human resources. Examinations may be assembled or unassembled and may include but shall not be limited to rating of training and experience; written, oral, physical or performance tests; or any combination of these, as determined by the commissioner of human resources after consultation with the department head. The examination process may take into consideration such factors as education, experience, knowledge, skill or any other qualifications which are job related and may be applied equitably and which in the judgment of the commissioner of human resources after consultation with the department head may enter into the determination of relative fitness of applicants.

#### **Sec. 114-203. Rating system**

Civil service applicants who meet the announced minimum and/or an acceptable score on a job related skills test are deemed qualified. If the applicants have outstanding training and experience, they are assigned to the highest category.

**Sec. 114-204. Fraudulent conduct or false statements by applicant.**

Fraudulent conduct or false statements by an applicant or by others with such applicant's knowledge in any application or examination shall be cause for the exclusion of such applicant from an examination, for the removal of such applicant's name from all eligible registers or for the discharge from the service after certification of such applicant. Applicants or employees coming under any of such categories or employees who have resigned while not in good standing with their department or employees under suspension shall be disqualified from taking any further examination.

**Sec. 114-205. Restriction of participation in the evaluation process.**

No employee of the department of human resources may directly participate in the rating of an examination of a relative, either by blood or marriage, of a roommate or of anyone in the employee's household. Such participation in the rating of such an individual shall constitute grounds for dismissal of that employee.

**Sec. 114-206. Method of rating.**

(a) Under this division, appropriate scientific techniques and procedures, based on merit principles, shall be used in rating the results of examinations and in determining the relative ratings of the competitors. Applications shall be rated and grouped accordingly: highly qualified and qualified. The rating criteria shall be developed by the department of human resources in consultation with the requesting department. The examination shall represent a proper balance between the specialized knowledge of the position requirements possessed by the requesting department and the specialized knowledge of regulatory requirements and testing methods possessed by the department of human resources.

(b) For all examinations, whether by written test or by evaluation of training and experience or by both, the minimum performance or requirements, by which eligibility is achieved, shall be established by the department of human resources.

**Sec. 114-207. Veteran's preference.**

(a) Any veteran who has served on active duty as a member of the armed forces of the United States for a period of more than 180 days, not counting service under an initial period of active duty for training under the six months reserve or National Guard program, any portion of which service occurred during a period of armed conflict in which any branch of the armed forces of the United States engaged, whether under United

States command or otherwise, and who was honorably discharged there from shall, upon submitting documentary proof of such discharge, be entitled to have added to such person's minimum qualifying score on an open competitive examination veteran's preference points, noncumulative, as set forth in this section.

(b) For purposes of this section, the term "armed conflict" includes any military intervention beyond the limits of the United States as well as any confrontation of the armed forces of the United States with foreign nationals in which actual hostilities erupt.

(c) The rank order of such veteran among other eligibles shall be determined on the basis of their augmented rating. Such preference shall be allowed on entrance examinations and in reinstatement, reemployment or retention, but shall not be allowed on promotional examinations. Points shall be allowed as follows:

(1) Such veteran shall be entitled to have five points added to the earned rating of such veteran.

(2) Such veteran who has at least ten percent service-connected disability, as rated and certified by the Veterans' Administration, shall be entitled to have ten points added to the earned rating of such veteran.

(3) The unmarried spouse of any deceased veteran shall be entitled to have ten points added to the earned ratings of such unmarried spouse.

#### **Sec. 114-208. Inspection of papers.**

(a) Under this division, any applicant, during a period of 30 days subsequent to the establishment of the eligible list, shall be permitted to make one inspection of such applicant's examination papers and other pertinent documents. Such examination papers shall not be subject to inspection by the general public. A manifest error in rating a test or in test procedure shall be corrected if called to the attention of the commissioner of human resources within the inspection period. Such corrections shall not invalidate any appointment previously made from such a list.

(b) The applicant, when making the inspection as provided in subsection (a) of this section, shall make such inspection at the department of human resources during regular business hours and under conditions to ensure that the applicant has no opportunity to make any changes on the examination or answer sheets, that no opportunity is afforded to copy any test material or answers and that there is no exposure of the examination material beyond that which normally would occur when the examination was administered to the applicant.

**Sec. 114-209. Review or appeal of ratings.**

(a) *Policy.* Original examination ratings by the department of human resources shall be subject to review or appeal upon an examinee presenting in writing to the commissioner of human resources sufficient facts to justify the contention that the examinee's examination was incorrectly rated.

(b) *Basis of review or appeal.* The examinee, desiring such review or appeal, shall indicate generally the manner in which the original decision was improper, the factors which were not credited or not given proper credit and any other pertinent information which would support the review or appeal and which would enable a reevaluation of the rating.

(c) *Review process.*

(1) Review of a rating shall not be made by the person making the original rating decision. The commissioner of human resources shall also review the rating prior to notifying the examinee of the decision by the department of human resources concerning the review.

(2) Requests for review of eligible ratings may be made at any time during the life of the register (list of eligibles). Request for review of ineligible ratings shall be made within six months from the date of registration or ineligibility.

(3) Should the review reveal that the original rating was correct, the applicant shall be informed in writing that such rating has been reviewed and that the rating remains unchanged.

(4) Examinees, requesting review of the results of examinations other than written examinations, may have explained to them the reasons why various blocks of their experience have been considered not to qualify or why they were assigned a specific rating.

(5) If, after review by the commissioner of human resources, an examinee remains dissatisfied with the assigned rating, such examinee may appeal in writing to the civil service board within 30 days of the date of the review by the commissioner of human resources.

**Sec. 114-210. Confidentiality of examination material.**

Under this division, all application, examination and test material shall be regarded as privileged and confidential and shall not be available for public inspection. Such material shall be made available to the civil service board when pertinent in a hearing on appeal.



**Sec. 114-211. Retention of examination records.**

Under this division, all examination records shall be retained for a period of two years or for the length of time required by federal, state or city regulations, whichever is greater.

**Sec. 114-212. Promotional examinations.**

(a) Promotions in the civil service may be made on a competitive, limited competitive or noncompetitive basis.

(b) Promotions may be made when qualified eligibles are available and when it is determined that it is in the best interest of the city to fill vacancies by internal promotions. Nothing in this article shall be interpreted as prohibiting the filling of any position by open competition.

**Secs. 114-213--114-225. Reserved.**

***Subdivision II. Police, Fire and Corrections Promotions\****

**Sec. 114-227. Short title.**

This subdivision shall be known and may be cited as the Police, Fire and Corrections Promotional Rules and Regulations.

(Code 1977, § 5-2021(exh. A, ch. VIII, subch. B, § 1); Ord. No. 1999-50, § 1, 6-15-99)

**Sec. 114-227. Definitions.**

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Appointing authority* means, for all positions in the department of police, the police chief; for all positions in the department of fire, the fire chief; and for all positions in the department of corrections, the corrections chief.

*Appointing rule* means the selection for promotion of an individual from among a group with the highest possible rating for the rank.

*Commissioner* means the commissioner of human resources.

*Discretionary ranks* means ranks to which appointments are not controlled by this subdivision and to which appointments can be made at the discretion of the police chief, fire chief and corrections chief, respectively.

*Eligible* means a sworn employee who meets requirements for a rank and whose name is on an eligible list.

*Eligible list* means a list of the names of employees who have competed for a rank of employment and are qualified to be appointed, listed in order according to the results of the examination process.

*Examination* means selection procedures used to determine the relative qualifications of applicants for promotion.

*Minimum qualifications* means the requirements established in the rank specification for experience and demonstration of the necessary proficiencies in a lower rank in order to compete for promotion.

*Probationary employee* means an employee who has been appointed to a rank from an eligible list but has not successfully completed a 12-month probationary period in the rank.

*Probationary period* means a period of 12 months following a promotional appointment during which the appointing authority, in consultation with designated subordinate commanders, determines whether or not the probationary employee has the requisite knowledge, skills and abilities necessary to perform the work behaviors of the rank at an acceptable level. The probationary period is considered a noncompetitive part of the examination for the rank.

*Rank* means a group of positions which have similar duties and responsibilities, require similar qualifications, can be designated by a single title indicative of the level of responsibility of the positions and for which the same schedule of pay is applicable.

*Rank specification* means a written document based upon an applicable job analysis which shall include but not be limited to descriptions of the responsibilities and work of the rank; a description of the critical work behaviors of the rank and the knowledge, skills and abilities necessary for the performance of such work behaviors; and the minimum qualifications necessary in order to compete for the rank.

*Status* means the condition of a sworn member who has acquired a right to a rank in the manner established by this subdivision and by the overall provision of the labor relations ordinances and this article, which condition is retained by a probationary employee in such employee's lower rank unless the probationary period for the new rank is completed successfully and status in the new rank is gained. Sworn employees who fail their probationary period shall be returned to a position in their rank in which they have continued to have status during the probationary evaluation portion of the examination.

*Sworn member* means an employee in the department of police or department of fire, as established by the definition of the unclassified service contained in section 114-84, or an employee in the department of corrections who is certified as a detention officer by the Georgia Peace Officer Standards and Training Council (POST) and occupies a designated sworn position.

**Sec. 114-228. Purpose.**

This subdivision sets forth the rules and procedures to be followed in making promotional decisions within the departments of police, fire, and corrections. The rules and procedures are designed to establish a promotional system for the departments that provides for the selection of superior officers based solely upon merit and fitness for promotion, as ascertained by job related and valid selection procedures developed in accordance with the governing legal guidelines and appropriate professional standards.

**Sec. 114-229. Applicability.**

This subdivision shall apply to promotions to the supervisory and mid-management ranks of sergeant, lieutenant and captain in the department of police, lieutenant and captain in the department of fire, and sergeant, lieutenant and captain in the department of corrections.

**Sec. 114-230. Status of present sworn members.**

Sworn members in the nondiscretionary ranks of police officer, sergeant, lieutenant and captain in the department of police and firefighter, lieutenant and captain in the department of fire, on the effective date of the ordinance from which this subdivision derives [June 18, 1992] and sworn members in the nondiscretionary ranks of corrections officer, sergeant, lieutenant and captain in the department of corrections on the amended date of the ordinance from which this subdivision derives [June 15, 1999] shall be given status in the nondiscretionary rank they hold as of that date. Sworn members of the department holding discretionary ranks on the effective date of the ordinance from which this subdivision derives, or the amended date as applicable, shall be given status in the non-discretionary rank they held at the time they were appointed to their first discretionary rank.

**Sec. 114-231. Amendments.**

Amendments to this subdivision may be recommended to the council by the commissioner of human resources, police chief, fire chief or corrections chief or initiated by the council. In determining these recommendations, hearings may be held, at which time both proponents and opponents of proposed amendments can be heard. Notice of any hearing shall be posted by the police chief, fire chief, and corrections chief at least two weeks in advance of such hearing at all permanent installations of the department of police, department of fire, and department of corrections in such a manner as to ensure that notice is readily accessible to everyone in the respective departments.

**Sec. 114-232. Creation of the rank specification.**

The commissioner of human resources, in conjunction with the appointing authority, shall create a separate document for each rank covered by this subdivision. The document shall be known as the rank specification and shall be approved by the respective appointing authority. A rank specification shall not be inconsistent with the written class specification developed by the commissioner of human resources in compliance with division 2 of this article; however, the rank specification shall go beyond the written class specification in defining the work behaviors of the rank and the knowledge, skills and abilities required to perform those work behaviors as may be required in the development of the content of valid examinations, in that the written class specification is primarily a classification and pay document, while the rank specification is primarily an examination document.

**Sec. 114-233. Amendments to the rank specification.**

Under this subdivision, prior to the announcement of an examination process for a rank, the commissioner of human resources, in conjunction with the appointing authority, shall thoroughly review the rank specification and make any amendments to the rank specification deemed appropriate.

**Sec. 114-234. Examination announcement.**

The commissioner of human resources, in conjunction with the applicable appointing authority under this subdivision, will determine all eligible candidates for each examination. The commissioner shall give notice of each examination at least 120 days in advance of the date of administering the first competitive part of the examination. The appointing authority shall post a notice thereof in all permanent facilities of the applicable department. The announcement shall state the rank for which the examination is being held, the official announcement posting date, the last date and manner for making application for admission to the examination, the examination parts to be used in the competition and the weights for each part, the study lists and any other information considered pertinent and useful. The rank specification in effect at the time an examination procedure is announced shall be provided to all eligible candidates along with the examination announcement. A copy of the current rank specification shall also be posted with the announcement in each permanent facility of the applicable departments.

**Sec. 114-235. Filing of applications.**

All sworn members who wish to apply for a promotional examination under this subdivision must file a written application on the form prescribed by the commissioner of human resources within 30 days of the date the announcement is officially posted.

**Sec. 114-236. Minimum qualifications to compete.**

(a) The rank specifications defined in section 114-227 shall designate the lower rank from which promotions can be made, provided that:

(1) To be eligible to compete for the rank of either police sergeant, fire lieutenant or corrections sergeant, an applicant must have had at least five years' continuous service as a sworn member with the appropriate city department immediately prior to the last date for filing an application; and

(2) To be eligible to compete for all nondiscretionary ranks above police sergeant, fire lieutenant, corrections sergeant the sworn member must have had at least two years' continuous service in the appropriate city department, immediately prior to the last date for filing an application, in a lower rank from which promotions can be made, as set forth in the rank specifications.

(b) The years of continuous service needed to be eligible to compete can be achieved by service either in the nondiscretionary ranks, as set forth in the rank specification or in a discretionary rank, as long as the total service equals or exceeds the requisite minimum number of years to compete and the time in the discretionary rank is being served immediately prior to the last date for filing an application.

(c) A sworn member holding a discretionary rank who wishes to compete in an examination shall be eligible to take an examination only for the next highest rank above the nondiscretionary rank in which such sworn member holds status.

**Sec. 114-237. Disqualification from examination process.**

The commissioner of human resources shall disqualify a sworn member from an examination process under this subdivision when the commissioner has determined that:

(1) The application was not filed within the period specified by the examination announcement;

(2) The sworn member lacks the required length of continuous service at a lower rank necessary to be eligible to compete;

(3) The sworn member, after sufficient and proper notification, did not properly appear at the time and place designated for each part of the examination;

(4) The sworn member has been suspended five or more days, whether consecutive or not, for violation of the rules and regulations of the department of police, fire, or corrections within 24 months of the last date for filing applications, and all administrative appeals

relating to such suspension have been adjudicated. Should the commissioner of human resources disqualify a sworn member, written notification of the reasons for that action shall be given to the sworn member by the commissioner no later than 30 days before the first competitive part is scheduled or five days before the next competitive part is scheduled in the case of disqualification under subsection (3) of this section.

**Sec. 114-238. Examinations.**

All promotions to ranks covered by this subdivision shall be made in accordance with the relative merit and fitness of the sworn members competing. Merit and fitness shall be ascertained by competitive examinations. All examinations and examination parts shall be fair, impartial and developed in accordance with professional standards and legal guidelines and shall relate to those matters which will test fairly the relative capacities and fitness of the sworn members to discharge efficiently the duties of the rank to be filled.

**Sec. 114-239. Concealment of identity.**

The identity of every sworn member taking a written test under this subdivision shall be concealed by the use of a numbered identification system. The identity of any candidate shall not be revealed until all written test papers have been scored and the minimum passing score set in accordance with this subdivision. Any sworn member whose written test paper bears the member's name or any other identifying mark or any sworn member who reveals an identification number to the appointing authority or to any employee of the department of police, fire or corrections shall be disqualified from further competition and shall be so notified.

**Sec. 114-240. Rating of examination parts.**

Under this subdivision, appropriate scientific techniques, developed in accordance with professional testing standards, shall be used in rating the results of all examination parts and interpreting the relative ratings of the competitors.

**Sec. 114-241. Minimum passing score.**

Under this subdivision, in order for the name of a sworn member to appear on an eligible list, the sworn member must pass each part of the examination. Each sworn member who fails to attain the minimum passing score on any part of the examination shall be considered to have failed the examination and shall not be eligible to compete in any further part of the examination or to attain a rank on the eligible list.

**Sec. 114-242. Determining minimum passing score.**

A professional in test development shall determine the minimum passing score on any written multiple-choice test used as part of an examination under this subdivision. The determination will be based on appropriate scientific and professional procedures and will be reported to the commissioner of human resources. The commissioner of human resources, in conjunction with the appropriate appointing authority, shall approve the minimum passing score and shall do so before the identity of any competitor is known. The minimum passing score on formal, structured, oral interviews or other separately scored assessment exercises shall be defined by the rating scale used.

**Sec. 114-243. Weights of examination parts.**

If the examination process under this subdivision has more than one competitive part, the official announcement shall state the weight to be assigned to each part. The weights shall be stated as percentages and the total weight of all parts of an examination process shall equal 100 percent. Every candidate passing all parts of the examination process shall have the final score computed in accordance with these weights and in accordance with appropriate scientific procedures so that the stated weights are accurately reflected.

**Sec. 114-244. Rank order on the eligible list.**

The order of names of passing candidates on the eligible list shall be determined by the final examination score computed as set forth in section 114-241. Final examination scores will be rounded off to three decimal points. If, thereafter, a tie still exists it will remain unbroken.

**Sec. 114-245. Notification of results.**

A sworn member who competes in any part of an examination under this subdivision shall be given written notice of the results of each part of the entire examination. The notice shall include the sworn member's score for each part, and, if the member passes, the member's rank on the eligible list shall be given after the eligible list is established. Sworn members who fail an examination part shall be notified of that fact, along with their score, before the next examination part is administered.

**Sec. 114-246. Eligible list.**

The fire, police and corrections chiefs shall maintain an active eligible list for all ranks covered by this subdivision. Each list shall contain the names of those candidates who passed the entire examination process and each candidate's final examination score and rank on the eligible list. Eligible lists

become effective on the date approved by the commissioner of human resources.

**Sec. 114-247. Duration of eligible list.**

Eligible lists, unless earlier exhausted, shall be in effect for 24 months from the date the list was approved by the commissioner of human resources in accordance with section 114-246. Eligible lists shall not be extended beyond their expiration date, and all vacancies existing on the expiration date shall be filled from the eligible list; however, section 114-249(b) shall still apply. A new examination announcement, as provided for in section 114-234, will be published as determined by the commissioner of human resources after a list is exhausted. When a new examination announcement has not been published, a written notice explaining the reasons for such failure to publish a new announcement shall be given to all sworn members of the affected department, the mayor and the appropriate legislative oversight committee within 30 days after a list has expired.

**Sec. 114-248. Review of examination paper.**

(a) A sworn member who competes in a written multiple-choice test, as provided by this subdivision, shall have the right to review a photocopy of the member's answer sheet, along with a copy of the written test booklet and a copy of the correct answer to each written test question. The review shall be held under the direct supervision of a professional in test development used by the commissioner of human resources to administer the written test, and it shall be held as soon as practicable after the written test administration date; but, in any case, it shall occur within no more than 30 days after the written test has been administered.

(b) Sworn members will be allowed to appeal to the test developer, in writing, any answer to a written test question other than the one specified as being the correct answer. The professional developing the test shall consider all such appeals and, if it is deemed justified, make such necessary corrections to the scoring key before reporting the final written test scores to the commissioner of human resources. The testing professional shall be required to document the reasons for recommending any changes to the original scoring key as well as the reasons for rejecting any appeal submitted by a sworn member.

(c) The commissioner of human resources may approve or disapprove the recommendations of the testing professional. If the action of the commissioner of human resources requires that the answer sheets be rescored, such rescoring will be done for all candidates by the professional test developer and reported back to the commissioner of human resources before the identity of any candidate is made known to anyone. The commissioner of human resources shall notify all candidates



of both the professional test developer's decisions regarding all appeals and the determination of the commissioner of human resources.

(d) Because of the need to use written tests which have been professionally developed and validated in accordance with both professional standards and legal guidelines, all sworn members reviewing test papers are expressly forbidden from taking any test material, review material or any written notes from the review room. To the extent practicable, reference material used in developing the written test will be made available to members during the review period.

**Sec. 114-249. Appointing rule.**

(a) Upon completion of a register, the commissioner of human resources shall provide the fire chief, police chief and corrections chief with a copy.

The fire chief, police chief and corrections chief shall certify the names of the five members who stand highest on the eligible list. The names of all members who, after seniority (based on date of employment as corrections officer, firefighter or police officer) is applied, still remain in an unbroken tie with the five highest members certified shall also be certified. If more than one vacancy exists, the commissioner of human resources shall certify one additional sworn member for each additional vacancy, including all members in unbroken ties with the last additional member to be certified. Each respective chief may appoint any of the certified members as the chief deems to be in the best interest of the affected department.

(b) When the number of names remaining on an eligible list is less than five, the chief of the affected department may decline to make an appointment and may request that a new examination procedure be administered. At such time, the eligible list shall be considered exhausted in accordance with section 114-247, notwithstanding the fact that there are still vacancies in existence.

**Sec. 114-250. Removal from eligible list.**

(a) The fire, corrections and police chiefs shall remove the name of a sworn member from an eligible list under this subdivision due to any of the following reasons:

- (1) Receipt of a written request from the sworn member.
- (2) Refusal to accept a promotional appointment.
- (3) Termination of the sworn member's employment with the applicable department.

(4) Suspension of five or more days, whether it is consecutive or not, for a violation of the rules and regulations of the applicable department.

(5) The discovery, after the eligible list has been established, that the sworn member would have been rejected under other sections of this subdivision had the information so discovered been known before the eligible list was promulgated.

(6) Failure to complete the probationary period, as provided in section 114-251.

(b) Whenever a sworn member's name is removed from an eligible list, written notice of such action and the reason for that action shall be given to the sworn member by the fire, corrections and police chiefs within five days of the date the action is taken.

(c) Removal from eligible lists established under this subdivision is not appealable through the civil service board under section 14-502.

#### **Sec. 114-251. Probationary period.**

(a) Every promoted sworn member shall serve a 12-month probationary period to be regarded as an integral noncompetitive part of the examination process under this subdivision.

(b) Sworn members filling discretionary ranks at the time of their promotion to a nondiscretionary rank in accordance with this subdivision shall have the time successfully served in the discretionary rank count toward the required 12-month probationary period, provided such service was immediately prior to promotion to the nondiscretionary rank. Time successfully served in the discretionary rank after the date of promotion to the nondiscretionary rank shall also be credited as part of the 12-month probationary period required to attain status in the nondiscretionary rank.

(c) The probationary period shall be utilized for closely observing how well a probationary employee performs the work and responsibility of the higher level rank and for securing the most accurate judgments as to whether or not the probationary employee's performance meets required work standards at the higher level rank. It shall be the duty of the chiefs of the respective departments to issue administrative regulations governing the probationary evaluation process.

(d) Prior to the completion of the 12-month probationary period, the chief of the department shall decide whether or not the probationary employee will receive status in the higher rank. If the probationary employee is deemed to have passed the probationary period and is to be given status in the rank, the employee shall be notified of such decision no later than 15 days before the expiration of the 12-month probationary period.

(e) At any time during the probationary period, the chief of the applicable department may remove a promoted sworn member whose performance does not meet the required work standards and return that member to the rank in which the member has retained status. In such event, the chief of the department shall notify the member in writing that the probationary evaluation part of the examination has been failed and the reason for such failure. Such notification shall be given at least 15 days in advance of the date the action is to be official and not later than 15 days before the 12-month probationary period is to expire. Thereafter, the name of a sworn member who failed the probationary evaluation part of the examination shall be removed from the eligible list.

**Sec. 114-252. Administration.**

The commissioner of human resources, in conjunction with the police chief, fire chief and corrections chief, shall be responsible for the administration of this subdivision. Issues that arise that are not specifically addressed by the rules and regulations will be resolved by the commissioner of human resources in conjunction with the fire chief, police chief and corrections chief in a matter consistent with the intent of this subdivision.

**Secs. 114-253 --114-265. Reserved.**

**DIVISION 8. CERTIFICATION AND APPOINTMENT**

***Subdivision I. General Provisions***

**Secs. 114-266--114-275. Reserved.**

**Secs. 114-139 Retention bonus**

***Subdivision II. Eligible Lists***

**Sec. 114-276. Statement of policy.**

Vacancies in the classified service shall normally be filled from eligible lists resulting from open competitive examinations, unless the department head should determine that such vacancies should be filled by transfer, promotion, demotion, reassignment or through any other authorized and established noncompetitive process. Decisions not to use open competitive examinations shall be approved by the commissioner of human resources, except that if the

department head and commissioner of human resources disagree, the mayor shall make the final decision.

**Sec. 114-277. Establishment of lists.**

- (a) The commissioner of human resources shall establish and maintain eligible lists for the various classes of positions as may be necessary to meet the needs of the classified service.
- (b) Each list shall contain the names of those eligibles who have been determined to be qualified through the examination process.
- (c) Names of eligibles shall be placed on eligible lists in the order of their adjectival rating. The names of eligibles with veteran's preference shall be entered in accordance with their respective augmented ratings, if appropriate.

**Sec. 114-278. Types of lists and durations.**

The commissioner of human resources shall maintain the following eligible lists:

- (1) *Open Competitive.* A listing of persons in rating order as a result of an open-competitive examination process to be used in making an appointment to the civil service. Persons separated in good standing and eligible for reemployment may request placement on the current open competitive list for which they qualify. The duration of the list shall be for a period of six (6) months, and may be up to an additional six (6) months.
- (2) *Promotional.* A listing of persons in rating order as a result of a citywide competitive examination or a departmental competitive examination (limited competition). The duration of the list shall be for a period of six (6) months, and may be up to an additional six (6) months.
- (3) *Reduction-in-Force (RIF).* A listing of persons who have been separated from the classified service in good standing as a result of a reduction in force. The duration of the list shall be two (2) years.

**Sec. 114-279. Methods of filling vacancies.**

- (a) The appointing authority, in consultation with the commissioner of human resources, may elect to fill any vacancy under the appointing authority's jurisdiction by any one of the following methods:
  - (1) Promotion.
  - (2) Reemployment.
  - (3) Open competition.
  - (4) Transfer.

(5) Demotion.

(b) The appointing authority may elect to make a temporary appointment only when the work is of a temporary duration of less than six months or when the commissioner of human resources indicates that no register of eligibles is available. Unless the appointing authority requests otherwise, the commissioner shall certify qualified eligibles on a RIF list; promotional list; or open competitive list.

**Sec. 114-280. Availability of eligibles.**

An eligible shall notify the commissioner of human resources in writing of any change of address or other change affecting availability for employment under this article. Whenever an eligible, either by application or by submitting a written statement, restricts the conditions under which such eligible will be available for employment, the name of such eligible may be withheld from all certification which does not meet the conditions specified.

**Sec. 114-281. Removal of name from lists.**

Names may be removed from eligible lists under this division by the commissioner of human resources for any of the following reasons:

- (1) At the written request of the eligible.
- (2) The refusal of an offer of appointment under conditions previously listed by the eligible as acceptable.
- (3) Appointment through certification from such lists to fill a regular position.
- (4) Appointment through certification from the eligible list for another class at the same or higher compensation. In such case, at the request of the appointee, the appointee's name may be continued on any or all lists, other than the one from which the appointment was made, for the remainder of the period of eligibility on such lists.
- (5) The failure to report for an interview or to respond, within the time specified in the notice, to any inquiry of the commissioner of human resources or department head.
- (6) Notice by postal authorities of the inability to locate an eligible at the last known address of such eligible.
- (7) The death of eligible.
- (8) The discovery, upon review of eligibility that the eligible would be subject to rejection under other sections of this article.
- (9) Dismissal for cause from the civil service.

(10) The separation from the services of the city, other than by layoff, of an eligible whose name is on a promotional list.

(11) The discovery that the eligible has willfully provided erroneous information, withheld information, evaded questions or otherwise misrepresented the qualifications of the eligible in order to qualify for appointment and/or promotion.

(12) Any cause or condition specified in this article for the rejection of an application.

**Sec. 114-282. Restoration of names to eligible lists.**

Upon any person's name being removed from an eligible list, such person shall immediately be notified in writing, addressed to such person's last known address. Such person may, at any time during the life of that eligible list, make written request to the commissioner of human resources for restoration to such list. The request shall set forth the reasons for the conduct or conditions resulting in the removal of the name from the list and the reasons advanced for restoration of the name. The commissioner of human resources, after determining whether or not such reasons are justifiable, may order the restoration of such name or refuse such request and shall notify such person of the action taken.

**Secs. 114-283--114-295. Reserved.**

***Subdivision III. Certification***

**Sec. 114-296. Request for certification.**

All requisitions for the filling of vacancies in the classified service shall be made on forms designated by the commissioner of human resources.

**Sec. 114-297. Number of names to be certified.**

Upon receipt of a requisition, the commissioner of human resources shall certify a sufficient number of names rated highest on the appropriate eligible register that will allow the appointing authority a reasonable choice of applicants, as determined by the commissioner of human resources, to fill the vacancy. If more than one vacancy is to be filled, additional names will be certified for the additional vacancies.

**Sec. 114-298. Incomplete certification.**

If there are too few persons in the highest rated groups to allow the appointing authority a reasonable choice of eligibles, as determined by the

commissioner of human resources, additional names from lower rated groups may be certified and given equal consideration by the appointing authority.

**Sec. 114-299. Establishment of the new register.**

When the commissioner of human resources determines that the number of names on an eligible register is too few to allow a reasonable choice for appointing authorities, at the discretion of the commissioner, a new register may be established.

**Sec. 114-300. Selective certification.**

If a particular position to be filled requires some very specific skill or training, upon request by the appointing authority, the commissioner of human resources may restrict referrals to those eligibles who possess the specific skill or training.

**Secs. 114-301--114-310. Reserved.**

***Subdivision IV. Appointment***

**Sec. 114-311. Certification of eligibles.**

Upon receipt of a referral list certified by the commissioner of human resources, the appointing authority may select from among any of the eligibles on the certified list.

**Sec. 114-312. Types of appointments.**

(a) *Original appointments (probationary).* The original employment of a person to fill a position in the classified service on a regular or part-time basis, as a result of selection from an appropriate list of eligibles, shall constitute a probationary appointment.

(b) *Regular appointment.* A probationary employee shall receive a regular appointment and shall acquire regular status within the classified service upon satisfactory completion of the probationary period

(c) *Temporary appointment.* Temporary appointments may be made for special projects or for other work of a temporary or transitory nature.

(1) Such appointments shall be made from qualified applicants on eligible lists who indicate their willingness to accept temporary employment. The acceptance of such appointment by an eligible

shall not affect the standing of such eligible on the list for permanent appointment.

(2) If certification from lists is impracticable because of the nonavailability of employees for temporary work, the commissioner of human resources may authorize the applicable appointing authority to select a qualified person of such authority's choice.

(d) *Emergency appointment.* When, because of an emergency involving the serious impairment of the public business of the city, it is impossible to fill a position in the competitive service by the normal procedure, the appointing authority, subject to the approval of the commissioner of human resources, may appoint any qualified person to such position. Such appointment shall continue only during such emergency or until an acceptable eligible list is established and a qualified applicant is selected therefrom.

(e) *Part-time appointment.* In a part-time appointment, the employee works on a continuing basis but devotes less than the normal time specified for that of a regular appointment in the affected class.

(1) The announcing of vacancies and the procedures for filling continuing part-time positions shall be the same as for full-time positions.

(2) Appointment shall be made from qualified applicants on eligible lists who indicate their willingness to accept part-time employment.

(3) Part-time employees in continuing positions shall receive sick, annual or other types of leave and holidays prorated on the basis of the time worked as related to the normal designated work period for the affected class.

(f) *Provisional appointment.* Whenever an urgent reason exists for filling a regular position in a class for which appropriate lists are not then available, the commissioner of human resources may authorize the vacancy to be filled by the means of a provisional appointment.

(1) Any candidate for provisional appointment must meet all of the requirements as established for the position being filled.

(2) An appropriate eligible list for the position shall be established at the earliest possible date, and the person serving on the provisional appointment shall be given an opportunity to compete.

(3) A provisional employee appointed to a regular position shall have the length of time served in a provisional status considered as a part of the required probationary period.

(g) *Specially funded appointment.* A specially funded appointment shall be in the unclassified services and shall be applicable with respect to positions funded



on a time-limited basis from sources such as bonds, or federal or state sources. Such positions shall remain in existence only during the duration of such funds and may receive the benefits and privileges available to other unclassified employees. Candidates for appointment must meet the requirements as established for the position being filled. Upon the appointment to specially funded positions, employees shall be advised that the tenure of their services is based on the duration of the special funds and shall, prior to accepting appointment, execute a written acknowledgment of such which shall be filed with the commissioner of human resources.

- (h) Military leave appointments. Whenever a position vacancy exists because of the fact that the regular occupant is on an authorized military leave of absence, such vacancy may be filled by certification from an eligible register. Such an appointee may be eligible for all benefits and privileges available to other employees; but, acquire no rights to the position. All provisions pertaining to classified and unclassified services apply.

#### **Sec. 114-313. Elimination of eligibles.**

Under this division, the appointing authority may eliminate from consideration the following eligibles:

- (1) Any eligible who declines an appointment, fails to reply to the appointment or when an inquiry concerning availability of an eligible is returned undelivered.
- (2) Any eligible who has been separated for cause or resigned while suspended from city employment.
- (3) Any eligible against whom the appointing authority has submitted objections which have been sustained by the commissioner of human resources.

#### **Sec. 114-314. Objections to eligibles.**

- (a) When an objection has been made to an eligible, the commissioner of human resources shall apply the following principles:

- (1) The objection shall be sustained when it is determined that the eligible is disqualified for some or all of the positions to be filled from that eligible list, including the particular job to be filled.
- (2) The objection shall be sustained, even though a sufficient basis for general disqualification of the applicant has not been presented, provided that a sufficient basis has been submitted to support the conclusion that the applicant is not fit for the particular vacancy.

(b) Objections will be sustained upon its being shown that the applicant is disqualified because of any one of the following general grounds for disqualification:

(1) Medical disqualification because of physical or mental unfitness for the position, as determined by licensed medical authority.

(2) Dismissal from employment for delinquency or misconduct.

(3) Intentional false statements, deception or fraud in the examination or appointment.

(4) Addiction to or habitual use of narcotics, other drugs and/or alcohol, as determined by licensed medical authority.

(5) Any legal or other disqualification which makes the applicant unfit for city service.

**Sec. 114-315. Sworn police and fire exception.**

In the departments of police and fire, the mayor or the mayor's designee shall be the appointing authority and shall have the power and authority to recruit, employ and hire and shall have all other powers as a department head in the civil service and the appointing authority as defined in this article.

**Secs. 114-316--114-325. Reserved.**

**DIVISION 9. PROBATIONARY PERIOD OF EMPLOYMENT**

**Sec. 114-326. Policy and objectives.**

All appointments to regular fulltime or part-time positions in the classified service shall be subject to the satisfactory completion of a six month probationary period. Such probationary period shall constitute an integral part of the selection process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new or promoted employee to the position, for rejecting any employee whose performance or conduct is not satisfactory and for affording the employee an opportunity to determine if such employee wishes to make a career in the service of the city.

**Sec. 114-327. Extension of time.**

The commissioner of human resources shall extend the probationary period for up to an additional six months upon the request of the applicable department head, provided such request is made prior to the expiration of the original probationary period.

**Sec. 114-328. Promotional appointments.**

(a) If an employee is removed during the probationary period following a promotion, for failure to perform satisfactorily the duties of the higher position, such employee may be returned to the position held prior to the promotion or to a similar position. Should an appropriate vacancy not exist, the employee may be allowed to remain in the position out of class until there is a vacancy in an existing position in the lower class. A probationary promotional appointment shall not affect an employee's earned regular status and rights in the classified service which have been acquired in another position.

(b) Promotions of employees covered by this division shall be made only according to merit and fitness and must be attained by competitive examinations, regardless of the number of applicants seeking promotion. Such examinations shall be administered by the department of human resources. All promotions in the classified service, except those under section 114-251, shall be for a probationary period of six months. During the probationary period, the person so promoted may be demoted by the appointing authority to the position the person formerly held, without a hearing. Any person so demoted shall be credited with any pay adjustments that the person would have earned in the position formerly held by such person had such person not been promoted.

**Sec. 114-329. Position changes and transfers.**

If a demotion, reassignment or transfer of an employee in the classified service occurs before such employee has completed the probationary period, the remainder of such probationary period shall be served in the new position, and such employee shall not be required to serve a new probationary period in the new position. A written report of such demotion, reassignment or transfer must be filed by the applicable appointing authority with the commissioner of human resources within three work days after the effective date of such action.

**Sec. 114-330. Reemployment.**

Upon reemployment in a position in the classified service, an employee shall not be required to serve a new probationary period when such employee has completed, within the previous 12-months, a probationary period in the same class for which reemployment is being effected.

**Sec. 114-331. Dismissal during probationary period.**

(a) Any employee, during the probationary period, may be removed or dismissed, without the right of appeal to the civil service board, for the following reasons:

(1) Such employee is unable or unwilling to satisfactorily perform the duties of the position or the lack of dependability of such employee does not merit continuance with the service, as determined by the appointing authority.

(2) Such employee has committed an offense which would constitute cause for disciplinary action under this article.

(3) The appointment of such employee was secured through fraud or fraudulent acts.

(b) Upon removal or dismissal, as provided for in subsection (a) of this section, the appointing authority shall notify the commissioner of human resources and the employee in writing enumerating the reasons for the removal or dismissal.

**Sec. 114-332. Probationary period reports.**

Prior to the end of the six-month probationary period, a written performance evaluation shall be conducted on the probationary employee if such employee is demoted or separated for unsatisfactory performance. The performance evaluation shall be signed by the appointing authority and submitted to the commissioner of human resources. If the commissioner of human resources is not notified prior to the expiration date of the probationary period, such employee shall acquire regular status in the position.

**Secs. 114-333--114-345. Reserved.**

**DIVISION 10. PROMOTIONS**

**Sec. 114-346. Policy.**

Vacancies in positions above the entry level in the civil service may be filled by promotion from lower classes or by recruitment of candidates, other than existing employees of the city, through appropriate competitive examination. A combination of both methods of filling vacancies may be used.

**Sec. 114-347. Political or partisan endorsement prohibited.**

No consideration shall be given to political or partisan endorsement for promotions to positions in the civil service; only merit and fitness shall be considered.

**Sec. 114-348. Types of promotions.**

The following shall constitute the types of promotions within the classified service:

(1) *Noncompetitive promotions.* Competitive procedures need not apply in the following instances:

a. A trainee appointee is moved into the class upon completion of an officially approved training program, provided the trainee was originally selected through competitive procedures.

b. A position is upgraded without significant changes in duties and responsibilities, the occurrence of a classification error or as a result of a change in the pay plan.

c. The promotion results from an employee's position being reclassified with the incumbent to a higher level due to significant changes in the actual duties and responsibilities.

(2) *Competitive promotions.* Competitive promotions shall be limited to a particular department upon request of the appointing authority. Competitive promotions of employees in the classified service shall be made in accordance with the following procedures:

a. Promotional announcements shall be sent to all departments or the particular department, as appropriate, and shall be posted on employee bulletin boards where appropriate and shall be posted on the official employee bulletin board in the department of human resources.

b. Each promotional announcement shall provide for a minimum period of seven (7) calendar days between the date of the announcement and the date the application is to be filed with the department of human resources. The employee shall be responsible for ensuring receipt of such employee's application by the department of human resources prior to the filing deadline established in the announcement.

c. Promotional announcements shall include the following:

1. Official class title

2. Salary range
3. General description of the position
4. Minimum entrance requirements
5. Examination procedure
6. Promotional potential, if the position is a formal trainee or career ladder position with defined promotion potential
7. Filing deadline
8. Announcement date

**Sec. 114-349. Certification and selection.**

(a) The commissioner of human resources shall certify a sufficient number of names ranking highest on the appropriate promotional register that will allow the appointing authority a reasonable choice of applicants to fill the vacancy.

(b) The appointing authority shall make the selection from the group of employees certified in accordance with this article.

(c) All selected employees promoted to a "position of trust" will be required to pass a criminal background check as a condition to such promotion(s). If such background check reveals criminal convictions related to the essential job duties, the promotion shall be rescinded and the employee may remain in the current position held. This provision does not apply to sworn public safety employees transferring within zones.

**Sec. 114-350. Release of promoted employees.**

Upon an employee's promotion to a position in another department, such employee shall be released by such department within a reasonable period of time, which shall not normally exceed two weeks. At the discretion of the appointing authority involved, such period of release may be extended for emergency or hardship.

**Secs. 114-351--114-360. Reserved.**

## DIVISION 11. TRANSFERS, DEMOTIONS AND REEMPLOYMENT

### Sec. 114-361. Transfers.

- (a) Generally. A regular employee may be transferred to meet the needs of the civil service or may be transferred, upon request and acceptance, to a position in the same class or in a different class having the same entrance salary. A transfer may require the employee to move from one department to another or within a department. When an employee is transferred to a "position of trust", a criminal background check is administered as a condition to transfer. A credit check shall be conducted if such transfer warrants such action based on job relatedness.
- (b) *Intradepartmental transfers.* The appropriate department head may, at any time, reassign an employee of the department in the civil service from one position to another in the same class or another class within the same pay range within the same department.
- (c) *Interdepartmental transfers.* A transfer of an employee from one department to another shall have the approval of the commissioner of human resources and the two concerned department heads. Requests for such transfer shall establish that the employee meets the qualification requirements of the class to which the transfer is proposed.
- (d) *Salary range after transfer.* An employee who is transferred shall continue to receive the same rate of pay, except as otherwise provided.
- (e) *Transfer of physically incapacitated employee.* If an employee becomes physically incapacitated to the extent that such employee is unable to perform the duties of the employee's position, the commissioner of human resources may, with the consent of such employee and the appointing authority, transfer the employee to another position in the same pay range, the duties of which such employee can perform despite the physical incapacity.
- (f) *Use of intradepartmental or interdepartmental transfer for retaliation.* Notwithstanding the foregoing subparagraphs, no employee shall be subject to intradepartmental or interdepartmental transfer in retaliation or response to engaging in a protected activity such as reporting fraud, waste or abuse in city government.

### Sec. 114-362. Demotions.

- (a) *Involuntary demotions.* An appointing authority may demote, for just cause, an employee under such authority's jurisdiction from a position in one class to a position in a lower class, provided that the employee involved and the commissioner of human resources have been notified in writing of such contemplated action. Pay shall be calculated consistent with section 114-128.

(b) *Voluntary demotions.* Subject to the approval of the applicable appointing authority and the commissioner of human resources and upon the request of an employee, such an employee may be demoted to a vacant position in a lower class. The determination of whether or not the employee is qualified to perform the duties and responsibilities of the position in the lower class shall be made by the commissioner of human resources. Pay shall be calculated consistent with section 114-128.

#### **Sec. 114-363. Reemployment.**

(a) *Generally.* Any regular employee, who is separated from the city in good standing and with a satisfactory performance evaluation may be eligible for reemployment for a period of three years following the date of separation. Such former employee may be reemployed in the class previously held, or in any class for which they are deemed eligible under the civil service system, provided a vacant position exists

(b) *Certification of eligibles to fill vacancy.* When a vacancy exists which the appointing authority has decided to fill by reemployment, the commissioner of human resources shall certify to the appointing authority that the applicant is eligible for reemployment and meets the requirements for the position.

(c) *Credit for former service.* A former employee reemployed under this section may be credited for pay purposes with all former service in the class in which such employee is reemployed and service in any higher class, and shall be compensated in accordance with section 114-130.

#### **Secs. 114-364--114-375. Reserved.**

### **DIVISION 12. SEPARATIONS**

#### **Sec. 114-376 Types**

Separations and/or terminations from positions in the civil service shall be designated as one of the following types:

- (1) Resignation means the voluntary action of an employee to separate from the position held.
- (2) Termination means the act of ending an employment relationship with an employee or not for cause.
- (3) Layoff or reduction in force means the termination of an employment relationship due to budgetary or financial reasons, or in the event an office or department reorganization.



(4) Not fit-for-duty means termination of an employee from the civil service as a result of a fitness-for-duty examination by a licensed physician certifying the employee is unable to perform the essential functions of the position.

(5) Dismissal means discharge or separation of an employee from the civil service for cause.

(6) Retirement means the voluntary election of an employee to separate from the civil service and receive a distribution from a retirement fund.

(7) Death means separation of an employee from the civil service shall be effective as of the date of death of the employee.

(8) Private contract management, privatization, managed competition, or outsourcing of city services means termination of an employment relationship due to the city's decision to utilize an alternative source to manage a business function or operation

#### **Sec. 114-377. Resignation.**

An employee shall submit written notice of resignation at least 14 days in advance of the date of resignation to the department head. Immediately upon receipt of such notice of resignation, the department head shall forward the notice to the commissioner of human resources.

#### **Sec. 114-378. Termination.**

An employee may be terminated from the service of the city for reasons other than causes set forth in Section 114-528. Such reasons may include, but are not limited to lack of funding, grant expiration, completion of an employment contract, organizational restructuring, loss of a required license, or elimination of job functions.

#### **Sec. 114-379. Layoff or reduction in force**

(a) This section shall apply to regular employees within the classified service.

(b) A reduction in force (RIF) occurs when an agency is obliged to demote, separate or furlough one or more employees because of lack of work, shortage of funds or reorganization. The cause of reduction in force may come from legislative action or from decisions of the head of the agency or some official who has been authorized to make such decisions.

(c) Reduction in force may not be used for the purpose of dismissing or demoting regular status employees whose job performance is not acceptable. The progressive discipline process and adverse action

procedures should be applied when performance problems arise. A RIF shall not be used to alter the racial or sexual composition of a department or classification.

(d) Prior to initiating a RIF, the mayor should consider using other means, such as hiring freezes, reduction through attrition, furloughs without pay, reduced workweeks, reassignments or other methods to lessen the negative impact of such an action.

(e) It shall be the responsibility of the commissioner of human resources, upon recommendation of the appointing authority, to define the area within which the mechanics of the RIF are to apply. This area shall normally be department wide or officewide. A more expanded or restricted area may be established when it is determined to be more practical.

(f) The appointing authority, based on specific procedures established by the commissioner of human resources, will be responsible for developing a departmental RIF plan in keeping with this section. This departmental plan must be approved by the commissioner of human resources prior to implementation.

(g) Within the area of the RIF, each affected class will be dealt with separately. Before regular employees in a job class can be demoted or separated, all temporary and probationary employees in the affected class will be separated. Employees serving a probationary period after a promotion shall compete in the class from which they were promoted. All individuals within each affected class will compete for the remaining positions in that class based on retention points. Individuals not selected to be retained in the remaining positions will be placed in a RIF pool in priority order based on retention points. Retention points will be determined by two factors: length of service and performance evaluation. Individuals in the RIF pool will be placed in vacant funded classified positions for which they qualify throughout the city based on their retention points. However, no employee will receive a promotion as a result of this procedure. Individuals for which no position can be found will be separated.

(i) If an employee is placed in a lower pay grade as a result of a RIF, the employee will be placed within the new pay grade, which does not result in a change in pay provided also that the salary shall not exceed the maximum salary of the range. If an employee's salary exceeds the maximum salary of the lower pay grade, the employee's salary shall be set at the top of the new range.

(j) The commissioner of human resource, at least 14 calendar days prior to the date of separation or demotion, shall notify in writing any regular employees scheduled to be demoted or laid off.

(k) Employees demoted or separated as a result of a RIF will have priority reemployment rights based on their retention points to any vacant

classified position for which they qualify, providing it does not exceed the pay grade in which they had regular status at the time of the RIF.

(l) An employee will retain these rights for a two-year period or until the employee refuses to accept a position offered in accordance with this section, whichever occurs first.

(m) The commissioner of human resources has the authority to place individuals who were negatively affected by the RIF into vacant funded classified positions for which they qualify.

(n) An employee shall have the right to appeal to the civil service board a failure to follow procedure in the administration of the RIF, but shall not have the right to appeal the reason for this reduction.

#### **Sec. 114-380. Fitness-for-Duty.**

The head of the department, with the approval of the commissioner of human resources, shall have the right to direct any employee within such department to be examined by a physician to be designated by the city. Upon the discovery of a disability of any kind which impairs the effectiveness of an employee or which makes the employee's continuance on the job a danger to the employee or others, the following action shall be taken:

(1) If there is a dispute as to either physical or mental fitness of such person to be restored to such person's position with the city, the question of mental or physical qualifications shall be submitted to arbitration. To constitute the board of arbitration, the city shall select one physician or surgeon, the person claiming employment shall select one physician or surgeon and the two so selected shall select a third. The report of such board shall be final and conclusive upon the question presented and shall not be subject to appeal to the civil service board. Reasonable expenses of such board and compensation of the members thereof shall be paid by the city.

(2) Should the board of arbitration determine that the disability is a correctable one, the employee shall be allowed a specified period of time, as determined by the board of arbitration, in which to have such disability corrected. Such time in which to correct the disability shall be charged to the sick leave of such employee until exhausted, then to the annual leave of such employee until exhausted and then to leave without pay. Should the employee fail to take steps to have the disability corrected within the specified time, such employee shall be subject to disciplinary action or layoff.

(3) If, in the opinion of the examining physician, the disability cannot be corrected, the department head, with the assistance of the commissioner of human resources, shall take the following action:

- a. Attempt to place the employee in another position in which the employee can satisfactorily perform the duties of such position.
- b. Separate the employee from the civil service, if placement cannot be successfully accomplished.

#### **Sec. 114-381 Dismissal**

(a) Dismissal from the civil service shall constitute discharge or separation for just cause, which shall include but shall not be limited to delinquency, misconduct, inefficiency in performance or inability to perform assigned duties, insubordination or willful violation of this Code or the provisions of any city ordinance or of any rule or regulation of the city and any department thereof.

(b) As to offenses for which progressive discipline is applicable, a classified employee shall not be dismissed until progressive steps of discipline have been taken, without positive results therefrom, and until the employee to be discharged has been presented in writing with specifically stated reasons for such discharge. A copy of the document stating such reasons shall be filed by the department head with the commissioner of human resources prior to the effective date of such action. Any employee so discharged shall have the right to appeal such action to the civil service board according to the appeal process outlined in article VI, division 2 of this chapter and shall have the right to be represented before such board by any individual of such employee's choice.

#### **Sec. 114-382 Retirement**

The retirement of an employee from the civil service shall consist of the voluntary separation of an employee who has met the requirements of age and length of service under the law governing the pension fund of which such employee is a member or the mandatory separation of an employee who has attained the age of mandatory retirement.

**Charter references:** Retirement, § 3-506.

#### **Sec. 114-383 Death.**

Separation from the civil service shall be effective as of the date of the death of the employee. All compensation, including vacation pay, due to such employee as of the effective date of separation shall be paid to the beneficiary of the employee or the surviving spouse of such employee, as may be determined by law or by the applicable executed documents in the pension folder of such employee.

**Sec. 114-384 Separation on account of private contract management or operation, privatization or outsourcing of city services.**

(a) Separation from the civil service system on account of private contract management, privatization, managed competition, or outsourcing of city services occurs when the city determines by legislative action that it is in the best interest of the city to have city services privately managed, operated, privatized or outsourced and when it is necessary action to terminate and transfer employees within the civil service system to the workforce of a private contractor, agency or entity.

(b) Separation of city employees from the civil service system on account of private contract management, privatization, managed competition, or outsourcing of city services shall be effective as of the commencement date of the contract which consummates the terms and conditions for the management, operation, privatization or outsourcing of city services.

(c) This section shall apply to all regular employees of the city within the classified service. However, separations pursuant to this Code section may not be appealed to the civil service board.

**Sec. 114-385 Exit interviews.**

(a) An exit interview shall be utilized in order to provide the city with the reason for the termination by an employee of the employee's service with the city.

(b) An exit interview program shall be established by the commissioner of human resources. Where possible, each employee who separates from city service shall be given the opportunity to be interviewed by the commissioner of human resources or designee prior to the time such employee receives final payment for the employee's services. Should such a personal exit interview not be feasible, the commissioner of human resources shall attempt to achieve such interview through the mail. The results of such exit interview shall be maintained by the commissioner of human resources and may be utilized by the applicable department head and the commissioner of human resources, as may be deemed appropriate.

**Secs. 114-386--114-395. Reserved.**

## **DIVISION 13. EMPLOYEE PERFORMANCE EVALUATION**

### **Sec. 114-396. Objective**

The commissioner of human resources shall prepare a system for evaluating the work performance of all employees in the civil service. Such employee performance evaluation shall be used primarily to inform employees as to the status of their work performance and as to methods of improving such performance. The performance evaluation shall be used in determining the annual increase. The performance evaluation may also be used as a basis for training, promotion, demotion, transfer or dismissal and for such other purposes as set forth in this article.

### **Sec. 114-397. Period of evaluation**

All classified employees shall be evaluated prior to the expiration of a six-month interval following an original appointment or promotion. All classified and unclassified employees shall be evaluated annually and upon separation from service.

### **Sec. 114-398. Evaluation.**

Evaluations shall be prepared by the immediate supervisor of each employee and reviewed by the appropriate appointing authority. A supervisory employee who is leaving a position will be required to submit performance evaluation forms on all of the employees under such supervisor's supervision who have not been evaluated within the previous six-month period.

### **Sec. 114-399. Review with employee.**

The evaluator shall discuss each performance evaluation with the employee being evaluated and provide the employee with an official copy. The appointing authority shall establish an internal procedure to review the evaluation of any employee who disagrees with the performance evaluation rating. The appointing authority shall be the final authority in resolving disagreements. In the event the appointing authority and the evaluator are one and the same, the final authority for resolving disagreements rests with the chief operating officer.

### **Sec. 114-400. Confidentiality.**

Performance evaluations shall be confidential and shall be available only to the employee evaluated, the supervisors in the employee's chain of command, the appointing authority or designee, the commissioner of human resources and to the mayor upon request and when requested under the Georgia Open Records Act, OCGA 50-18-70 through 50-18-76.. Evaluations of employees of

the city council shall be confidential and available to the supervisor of those employees, the commissioner of human resources and to members of the city council. All performance evaluation forms shall be signed by the employee and the immediate supervisor and reviewed by the appointing authority or designee.

The employee's signature will not be interpreted as an agreement with the evaluation but rather, that the employee has reviewed and discussed the performance evaluation with the immediate supervisor.

Nothing contained in this section shall prohibit performance evaluations, where relevant, from being used as evidence in civil service board proceedings or in other legal proceedings.

#### **Sec. 114-401. Changes in evaluation.**

If for any reason a department head shall request an alteration of the performance evaluation form after it has been officially submitted to the commissioner of human resources, such request shall be made in writing and shall set forth fully the reasons for the request. The request shall become part of the official performance evaluation. Any changes in evaluation shall be discussed with the employee being evaluated, and such employee shall have the right of review and appeal, the same as with the original evaluation.

#### **Secs. 114-402--114-410. Reserved.**

### **DIVISION 14. ATTENDANCE AND LEAVE**

#### **Sec. 114-411. Hours of work.**

The hours of work in the civil service shall be determined in accordance with the needs of the city and the convenience of the public. The work schedule for each department shall be established by the department head in conjunction with the commissioner of human resources and approval of the mayor. Unless otherwise specified, the workweek for employees other than those engaged in public safety activities shall normally consist of eight hours during each of five consecutive 24-hour periods, which may begin on any day of the week and at any hour of the day. Such workweek may also consist of eight hours during each of five consecutive 24-hour periods for a position shared by two or more persons, where such work is established by the department head in conjunction with the commissioner of human resources and approved by the mayor. Hours of work for public safety sworn officers may be established consistent with the needs of the department and applicable FLSA standards.

**Sec. 114-412. Lunch period.**

Employees shall be allowed 45 minutes for lunch or any other meal taken during the workday or worknight, except that the respective department heads may at their discretion reduce to 30 minutes the lunch period for personnel who work outside and are not required to report to city hall or other offices daily and shall prescribe appropriate lunch period regulations for employees whose continuous presence on the job is required.

**Sec. 114-413. Attendance.**

Each department head shall be responsible for the attendance of all officers and employees within the department, and the department head shall keep complete attendance records, including annual leave, sick leave, overtime, etc. All employees non-exempt from FLSA must have a regular time-keeping method. Employees exempt from FLSA may do exception time-keeping. All leave shall be authorized in one hour increments, and shall be in compliance with FLSA.

**Sec. 114-414. Holidays.**

(a) *Designation, effect.* The following days shall be legal holidays for employees of the city:

- (1) January 1, New Year's Day.
- (2) Third Monday in January, Martin Luther King, Jr.'s birthday.
- (3) Last Monday in May, Memorial Day.
- (4) July 4, Independence Day.
- (5) First Monday in September, Labor Day.
- (6) November 11, Veterans Day.
- (7) Fourth Thursday in November, Thanksgiving.
- (8) Day after Thanksgiving.
- (9) December 25, Christmas Day.

(b) *Holidays observed.* Whenever any holiday shall fall on an employee's first normal weekly off-day, the preceding day will be taken as a holiday. If the designated holiday falls on an employee's regular second weekly off-day, the succeeding day will be taken as a holiday. All employees, except those who shall be necessary in order to carry on essential functions of the government of the city, shall receive a holiday on the days set forth in subsection (a) of this section. Those employees who are required to work on an observed holiday other than the designated holiday shall be given another day off within the calendar year for the holiday not observed.



(c) *Premium payment for holiday work performed.* Employees shall be eligible for compensation for work performed on a holiday only if the employee works on the actual day designated as the holiday in subsection (a) of this section. For purposes of this section the holiday for premium pay purposes is the 24-hour period beginning at 12:01 a.m. and ending at 12:00 midnight of the designated day. Notwithstanding anything in this subsection, no employee may receive more than eight hours at premium pay rate for any one holiday, except for firefighters assigned to a 54-hour week, who may be paid premium pay for a maximum of 12 hours for each designated holiday worked.

(d) *Necessary workers.* The department head shall determine those employees necessary to render service on a designated holiday. These employees who are required to work on a designated holiday as defined in subsection (a) of this section will be compensated as follows:

(1) *Exempt employees.* Exempt employees who do not receive a holiday on any of the holidays named in subsection (a) of this section because of the necessity of their remaining on duty shall receive some other day in lieu of the holiday not received, and such holiday shall be given affected employees within the calendar year of the holiday not observed.

(2) *Nonexempt employees.* All nonexempt employees who do not receive a holiday on any of the holidays named in subsection (a) of this section because of the necessity of their remaining on duty shall be paid at a premium holiday rate equal to their regular rate plus 1 ½ times their regular rate of pay for each hour of work for that day.

(e) *Eligibility requirements.* An employee shall be entitled to regular pay on any holiday, provided the employee has worked the regularly scheduled workday immediately before and the regularly scheduled workday immediately after the holiday or is on approved leave with pay on those days. Holidays which shall occur during the time that an employee is on annual or sick leave shall not be charged against such holidays based upon the number of hours that such employees normally work each day. Temporary employees shall not be paid for holidays not worked.

(f) *Exceptions.* Those city employees who are housed in buildings of other governments will observe the holidays of that government.

#### **Sec. 114-415. Annual leave (vacation).**

Annual leave for an employee may be requested for personal or emergency reasons or for vacation. Temporary employees shall not be eligible for annual leave, and part-time employees shall be entitled to annual leave only in proportion to the number of hours worked as compared to the normal workweek. Annual leave shall be granted only in compliance with the following:

- (1) The vacation system for all city employees shall be:

**TABLE INSET:**

Length of Service	Annual Vacation in Days	Maximum Vacation Carryover in Days
Less than 5 years	12	25
5 years up to 10 years	15	25
10 years up to 15 years	18	35
15 years up to 20 years	21	35
20 years and up	25	45

The time shall be accrued in equal parts each pay period and shall be cumulative; however, no employee may carry forward from one year to the next any vacation in excess of the maximum vacation carryover determined in accordance with the length of service as specified in this subsection.

(2) A request for annual leave shall be submitted to the employee's immediate supervisor on a form approved by the commissioner of human resources. Leave may be taken only after approval by the appropriate department or office head. Such leave shall be scheduled in accordance with the needs of the respective departments and the budgetary limitations governing the employment of additional or temporary help. Annual leave for vacation, insofar as possible, will be granted in accordance with employee preference and departmental seniority.

(3) Employees shall not be permitted to exchange annual leave for cash payment except as provided in this subsection. Any officer or employee entitled to annual leave with pay who terminates, is terminated, retires or is laid off, prior to taking vacation time earned, shall be continued on the payroll of the city and shall be presumed to have commenced annual leave on the workday following the last day such officer or employee reported for work. Any such employee, at the employee's election, may receive cash payment in exchange for such unused accrued annual leave.

(4) One hour increments shall be the minimum charge for annual leave, and additional annual leave shall be charged in multiples of one hour.

(5) Leave shall be used only when earned, and annual leave with pay shall not be allowed in advance of being earned. Should an employee have insufficient leave to cover a period of absence, no advance shall be granted, and such absence shall be without pay.

(6) If an officer or employee dies, all compensation, including vacation pay, due to such employee as of the date of death shall be paid to the beneficiary of such employee, the surviving spouse or domestic partner of such employee or to the estate of such employee, as may be determined by law or by the applicable executed documents in the pension records of such employee.

**Sec. 114-416. Sick leave.**

(a) All officers and employees, except uniformed members of the department of fire, who are entitled to earn annual leave shall also be entitled to earn sick leave with full pay to be computed on the basis of one-fourth day for each five days of full-time paid service. Sick leave shall not be granted to temporary employees.

(b) Sick leave may be accumulated to an unlimited amount based upon the following stipulations:

(1) The base accumulation shall be 30 working days.

(2) Any sick leave used shall be from the base 30 days until this amount shall have been exhausted.

(c) Accumulation above 30 days shall be handled in the following manner:

(1) When an officer or an employee shall have accumulated 30 days of sick leave by the end of the last pay period in November, such officer or employee may be paid in cash each year by December 25 for one-fourth of the accumulated sick leave beyond the 30 days, and the other three-fourths above the 30 days shall be added to the sick leave reserve fund of such officer or employee.

(2) No charge will be made against this sick leave reserve fund until the base accumulation of 30 days has been exhausted and until a valid medical certificate has been presented as to the nature of the employee's illness. Any sick leave granted beyond 60 days from the reserve fund must have the approval of the chief financial officer or designee.

(d) In emergencies, officers and employees who, because of protracted illness, shall have used all accumulated sick leave and annual leave may be advanced sick leave upon the recommendation of the commissioner of human resources and the approval of the chief financial officer. To ensure the uniformity among the various departments, requests for advanced sick leave shall be addressed by the appropriate department head to the commissioner of human resources, who, upon investigation, shall make recommendation to the chief financial officer. Such advanced sick leave accruing to the credit of the officer or employee shall be charged against annual leave, exclusive of five days per year, accruing to

the officer or employee. Should the employment of an officer or employee be terminated before the advanced sick leave has been repaid, there shall be a deduction of one day's pay, based on the rate of pay at the time of termination, for each day of sick leave advanced from the final pay or any other sum due such officer or employee.

(e) One-hour shall be the minimum charge for sick leave, and additional sick leave shall be charged in multiples of one hour.

(f) To receive sick leave with pay, the employee shall notify such employee's immediate supervisor or department head prior to or within one hour after the time set for the beginning of such employee's daily duties. Failure to so notify the supervisor, office director or department head may result in one day's loss of pay, and an additional day's loss of pay shall result for each succeeding day in which notification is not received. An employee of a department operating on a 24-hour basis must provide such notification within the time limit established by the office director or department head.

(g) An officer or employee eligible for sick leave with pay shall be granted such leave by the department head for the following reasons:

(1) Personal illness, injury or disability.

(2) Consultation or treatment for personal medical, dental or optical conditions.

(3) Exposure to a contagious disease which would endanger others.

(4) Maternity.

(5) Death or illness of a member of an employee's family or of an employee's domestic partner which requires the employee's personal care and attendance. An employee's family is defined as members of the same household related to each other by blood or marriage and living in a bona fide family relationship and who are either:

a. Legal dependents of the employee;

b. Parent, child, brother, sister, father-in-law and mother-in-law; or

c. Another relative who has been in a parent-child relationship to the employee.

(6) Death of a member of the employee's family, plus grandparents (both natural and in-laws), grandchildren, brothers-in-law and sisters-in-law.

(h) Under the following circumstances, a medical certificate executed by a licensed physician or chiropractor may be required by the employee's

office director or department head in order to substantiate a request for sick leave:

- (1) Any period of absence due to illness consisting of three or more consecutive working days, except that the fire chief shall adopt a policy requiring a doctor or chiropractor certificate in the department of fire. The policy shall be consistent with the intent of this article.
  - (2) Request for sick leave during a period when the employee is on annual leave.
  - (3) The occurrence of frequent or habitual absences from duty, provided the employee has been notified or warned that a certificate would be required.
- (i) Any employee who is absent from work due to illness for a period of five or more consecutive days shall, prior to being allowed to return to work, obtain a medical certificate executed by a licensed physician or chiropractor.
  - (j) Should an employee utilize sick leave for purposes other than those set forth in this section, such time off shall be without pay. The employee may also be subjected to disciplinary action.
  - (k) An officer or an employee who leaves the service of the city and is reemployed within 90 days, upon compliance with the regulations then in force, shall be credited with all unused and nonpaid sick leave, not to exceed 30 days.
  - (l) Whenever an officer or employee is granted a leave of absence without pay and returns to the service of the city at the conclusion of such leave or has been laid off, upon reinstatement, the officer or employee shall be credited with all sick leave standing to the credit of the officer or employee on the effective date of the beginning of the leave of absence or layoff. No sick leave shall be accrued during a leave of absence without pay or during a layoff.

#### **Sec. 114-417. Military leave.**

##### **(a) Short-term Military Leave**

In addition to the rights and benefits provided to employees taking Extended Military Leave as described in section (b) below, regular full-time employees who must be absent from their job for a period of not more than eighteen (18) working days each year in order to participate in temporary military duty or training are entitled to receive up to 18 days paid military leave per year. All benefits will continue during an employee's short-term military leave.

##### **(b) Extended Military Leave**

Employees directed to participate in extended military duties in the U.S. Armed Forces that exceed 18 working days per year will receive paid military leave for the first 18 days of such military service per year, and shall be paid the difference between the military salary and current city salary for workdays 19 through 25 in any calendar year if such service is in conjunction with, or support of, homeland security or military action against terrorism, and thereafter be placed on an unpaid military leave of absence status for a period up to five years from the initial date of military service, and will be entitled to the rights and benefits described below, subject to the procedures outlined below.

(c) Procedure for Military Leave

- (1) The employee will provide the immediate supervisor with notice, (either verbal or written) that the employee will be engaging in military service. The employee should provide such notice as soon as they have knowledge of upcoming military service.
- (2) An employee on short-term or extended military leave may, at the employee's option, use any or all accrued paid annual leave or compensatory time while absent.
- (3) When the employee intends to return to work, a notification of reinstatement must be submitted to the applicable department head and to the commissioner of human resources within the application period set forth below.
- (4) If the employee does not return to work, the supervisor must notify the applicable department head and the commissioner of human resources so that appropriate action may be taken.

(d) Benefits

If an employee is absent from work due to military service, benefits will continue as follows:

- (1) If an employee has military orders for over 31 days, the employee and covered dependents may be offered health insurance coverage as long as the employee pays the required premium.
- (2) Any group term life/AD&D insurance provided by the city for the employee will be suspended the day the employee becomes active military. Any group term life/AD&D insurance provided by the city for the benefit of dependents will remain in effect as long as the employee pays the required premium.
- (3) Any group long-term disability insurance provided by the city will be suspended the day the employee becomes active military.
- (4) No employee shall accrue annual or sick leave while on unpaid military leave of absence status.

(5) With respect to the city's retirement plans, upon reemployment, an employee who has taken military leave will be credited for purposes of vesting with the time spent in military service and will be treated as not having incurred a break in service. Immediately upon reinstatement, the employee may, at the employee's election, make any or all employee contributions that the employee would have been eligible to make had the employee's employment not been interrupted by military service. Such contributions must be made within a period that begins with the employee's reinstatement and that is not greater in duration than three times the length of the employee's military service, not to exceed five years. The employee will receive all associated city matches for such contributions.

(6) Voluntary supplemental life/AD&D insurance will suspend the day the employee becomes active military. Converting to an individual policy will continue voluntary dependent life insurance coverage. To exercise this conversion option, dependents must submit a written application and the first premium payment within 31 days immediately following the suspension of coverage.

(e) Reinstatement

Upon an employee's prompt application for reinstatement (as defined below), an employee will be reinstated to employment in the following manner depending upon the employee's period of military service:

(1) For a period of 1 to 90 days-

a. in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, the duties of which the person is qualified to perform; or

b. in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, only if the person is not qualified to perform the duties of the position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

(2) 91 or more days-

a. in the position of employment in which the person would have been employed if the continuous employment of such person with the city had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform; or

b. in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority, status and pay, the duties of which the person is

qualified to perform, only if the person is not qualified to perform the duties of a position referred to in subparagraph (A) after reasonable efforts by the city to qualify the person.

(3) *Employee with a service-connected disability* - if after reasonable accommodation efforts by the city, an employee with a service-connected disability is not qualified for employment in the position that would have been attained or in the position that was vacated, the employee will be employed in:

a. any other position of similar seniority, status and pay for which the employee is qualified or could become qualified with reasonable efforts by the city, or

b. if no such position exists, in the nearest approximation consistent with the circumstances of the employee's situation.

(f) Application for Reinstatement

An employee who has engaged in military service must, in order to be entitled to the reinstatement rights set forth above, submit an application for reinstatement according to the following schedule:

(1) *If service is less than 31 days (or for the purpose of taking an examination to determine fitness for service)* - the employee must report for reinstatement at the beginning of the first full regularly scheduled working period on the first calendar day following completion of service and the expiration of eight hours rest and after a time for safe transportation back to the employee's residence.

(2) *If service is for 31 days or more but less than 180 days* - the employee must submit an application for reinstatement with the applicable department head and the commissioner of human resources no later than 14 days following the completion of service.

(3) *If service is 181 days or over* - the employee must submit an application for reinstatement with the applicable department head and the commissioner of human resources no later than 90 days following the completion of service.

(4) *If the employee is hospitalized or convalescing from a service-connected injury* - the employee must submit an application for reinstatement with the applicable department head and the commissioner of human resources no later than two years following completion of service.

(g) Exceptions to Reemployment

In addition to the employee's failure to apply for reemployment in a timely manner, an employee is not entitled to reinstatement as described above if either of the following conditions exist:



- (1) The city's circumstances have so changed as to make reemployment impossible or unreasonable.
- (2) The employee did not receive an honorable discharge from military service.

**(h) General Benefits Upon Reinstatement**

An employees reinstated following military leave will receive seniority and other benefits determined by seniority that the employee had at the beginning of the military leave, plus any additional seniority and benefits the employee would have attained, with reasonable certainty, had the individual remained continuously employed. In addition, an employee's time spent on active military duty will be counted toward their eligibility for FMLA leave once they return to their job with the city.

**(i) Documentation**

The applicable department head will, upon the employee's reinstatement, request that the employee provide the city with military discharge documentation (DD214) to establish the length and character of the employee's military service.

**(j) Examination**

An employee, ordered to appear for a physical examination for induction into the military service, shall be granted leave with pay for such purpose.

**Sec. 114-418. Reserved**

**Sec. 114-419. Civil leave**

(a) An employee shall be entitled to time off with pay when performing jury duty or when subpoenaed to appear before any public body or commission, except when summoned to appear for personal matters. An employee will be permitted to take any necessary time off to vote in any municipal, county, state or federal political party primary or election, pursuant to O.C.G.A. § 21-2-404. Such necessary time off shall not exceed two hours, and if the hours of work of such employee commence at least two hours after the opening of the polls or end at least two hours prior to the closing of the polls, the time off for voting need not apply. The employee's supervisor may specify the hours which may be used as provided in this section.

(b) An employee shall be entitled to time off with pay to work at the polls during a City of Atlanta municipal election, provided proper approval is received from the supervisor or department head of the employee. Eligible employees must submit an application to the Fulton or DeKalb County Department of Registration and Election, in accordance with applicable regulations, to be approved and selected to work at the polls on Election Day.

- (c) An employee, while taking examinations before a federal, state or other governmental agency, may be granted leave with pay if such examinations are pertinent to the employment of such employee with the city.

**Sec. 114-420-114-421. Reserved.**

**Sec. 114-422. Leave of absence without pay.**

A department head, with notification to the commissioner of human resources, may grant a regular employee a leave of absence without pay for a period not to exceed one year. The granting of a leave of absence without pay shall be subject to the following conditions:

- (1) Leave without pay shall be granted only when such will not adversely affect the interest of the service of the city.
- (2) Failure of an employee to return to work at the expiration of approved leave shall be considered as absence without leave and shall be grounds for dismissal.
- (3) An employee granted leave of absence without pay and who wishes to return before the leave period has expired shall be required to give the department head of such employee written notice of such wish at least two weeks in advance of the date such employee wishes to return. Upon giving such notice, the employee shall be permitted to return to work on the date specified, unless the employee's position has been temporarily filled by another employee for the period of time originally specified in the leave of absence.
- (4) The officers and employees may continue group life and health insurance benefits while on leave of absence from the employ of the city, provided that such leave of absence is granted for one of the following reasons: military leave, maternity leave, sick leave or study leave of absence. The premium payments for such insurance shall be made by the employee.
- (5) Upon the return from a leave without pay, the employee shall occupy the salary grade which such employee occupied at the time of the commencement of the leave; provided, however, that any across-the-board increases granted during such employee's leave shall be granted to such employee.
- (6) Upon the return from a leave without pay, the employee shall be entitled to employment in the department and in the same or equivalent class in which such employee was employed at the time of commencement of the leave.

(7) An employee who obtains employment elsewhere while on an authorized leave of absence shall forfeit such employee's position of employment with the city.

(8) An unclassified employee who is granted a leave of absence without pay to work on a political campaign shall have the employee's position of employment abolished with the city if the leave of absence to work on the political campaign extends for more than three months.

(9) All leaves of absence granted under this section, except leaves of absence to work on political campaigns, will be reviewed by the department head three months from the date such leave of absence begins to determine if it is in the best interest of the city for such leave to continue.

#### **Sec. 114-423. Compensatory time.**

(a) Employees nonexempt from FLSA may be given compensatory time off in lieu of overtime pay at the same overtime rate to which the employee is entitled..

(b) Employees exempt from FLSA may be given compensatory time off at the rate of one hour for each hour worked beyond their regularly scheduled work period. Exempt employees are not eligible for overtime pay.

(c) Each employee must use all compensatory time accrued by the end of the calendar year in which the time was earned. Except when work exigencies prevent the use of properly requested and approved leave, such leave may, with the request of the department head and the approval of the commissioner of human resources, be used in the following calendar year.

(d) All city employees who qualify can accrue a maximum of 160 hours of compensatory time.

#### **Sec. 114-424. Disability leave.**

(a) This section shall apply to both the classified and unclassified service of the city. Any employee who is covered by the state workers' compensation act and who suffers an on-the-job injury which is compensable under O.C.G.A. tit. 34, ch. 9 (O.C.G.A. § 34-9-1 et seq.), the state workers' compensation act, may receive salary in lieu of workers' compensation during the period of disability as set forth in this section.

(b) Receipt of salary during such disability leave shall be subject to the following conditions:

- (1) No compensation in the form of disability leave shall be allowed for the first three working days of incapacity resulting from an injury; however, if an employee is incapacitated for 28 consecutive days following an injury, disability leave shall be paid for such first three working days of incapacity.
- (2) When an employee is injured in the line of duty, the department head shall file a report of the injury using form WC1 of the state board of workers' compensation, which must be received by the department of finance within 48 hours of the injury and which must be supplemented, if necessary, to advise fully of the injury and all related circumstances.
- (3) A physician selected by the employee from the panel of physicians posted by the city under the provisions of the state workers' compensation act must be used to determine the extent of such employee's injury, the physical impairment of the employee resulting from the injury, the disability of such employee, the physical ability of such employee to continue to perform the duties of such employee's position or perform the duties of other positions and the physical ability of such employee to return to such employee's position after recovery from the injury.
- (4) Should the employee's physical condition, as determined by the medical evaluation described in this subsection, warrant, such employee may be assigned by such employee's department head to the duties of other positions during the period of recuperation from injury or to any position citywide by the commissioner of human resources, should no appropriate position be available within such employee's department.
- (5) Disability leave with full salary shall not exceed 90 calendar days from the date of injury, unless the authorized physician shall certify that such employee is unable to perform any duties during the period of recuperation from injury. In such case, the department of finance may extend the period of disability leave with full salary in increments of not more than 90 calendar days to a maximum period not to exceed six months from the date of such injury. The employee shall provide a doctor's certification of inability to perform duties every 30 days to continue to receive injury-on-the-job compensation. Thereafter, should the employee be physically unable to work as determined by the authorized physician, such employee shall be allowed to utilize all accrued sick and annual leave or be paid the rate provided by the state workers' compensation act. The payment of full salary as sick or annual leave shall be considered payment of full salary in lieu of workers' compensation income benefits provided by the state workers' compensation act. Holidays which occur during the employee's

absence on disability leave shall not be accrued for use upon return to work.

(6) A temporary employee who is disabled in the line of duty shall not receive disability leave but shall be paid in accordance with the state workers' compensation act.

(7) Payments of salary made to an employee on disability leave shall be subject to subrogation rights by the city in those instances where payments of salary shall be made to the employee as a result of the act of a third party and if such employee should obtain a recovery from the third party. Any and all information necessary in order to effect such subrogation rights shall be furnished to the department of finance by the head of the department in which the employee was working at the time of the injury, and the employee shall be subject to dismissal from employment for refusing to cooperate in effecting the subrogation rights of the city.

(c) The commissioner of human resources is authorized to identify appropriate jobs which may be filled by those officers or employees subject to 1981 Ga. Laws, page 3569 and for purposes of O.C.G.A. tit. 34, ch. 9 (O.C.G.A. § 34-9-1 et seq.), the workers' compensation act. Such job assignments shall be known as "modified duty."

(d) All city employees who are not covered by the city's pension plan shall be paid only the compensation required by the state workers' compensation act (O.C.G.A. § 34-9-1 et seq.).

(e) For the purposes of this section, a sworn officer of the department of police shall be deemed to be injured in line of duty upon the occurrence of any of the following:

(1) The officer sustains an injury while on duty performing such officer's normal functions.

(2) The officer sustains an injury while in the course of employment with another employer, within the boundaries of the city, pursuant to a valid permit approved by the department of police, and while taking appropriate and necessary action for the protection of the public.

(3) The officer sustains an injury while off duty performing a duty that is authorized by the rules and regulations of the department of police and which is appropriate and necessary for the protection of the public.

(Code 1977, § 5-2021(exh. A, ch. XV, § 14))

**Sec. 114-425. Absence without leave.**

Any absence of an employee from duty for all or part of a day which is not authorized by a specific grant of leave of absence under this division shall be deemed to be an absence without leave. Any such absence shall be one without pay, and shall subject the employee so absent to disciplinary action.

**Sec. 114-426. Blood donation leave of absence.**

An employee shall be entitled to a leave of absence of not more than 16 hours in each calendar year without loss of pay for the purpose of donating blood. This absence shall be computed at four hours per donation, up to four times per year upon satisfactory evidence of having donated or attempted to donate blood.

**Sec. 114-427. Leave to serve on an approved city employee board or commission.**

City employees who are elected to or appointed to an approved city employee board or commission may attend meetings and other official functions of such board during such employees' regular or assigned working hours, and the time spent attending such meetings and functions shall not be charged to such employees' leave time, subject to the following conditions:

- (1) The employees shall notify, in writing, their immediate supervisors of their attendance at such meeting not less than 48 hours prior to the scheduled date and time of the meeting. With regard to specially called or emergency meetings, the employees shall notify, in writing, their immediate supervisors of such meeting as soon as is practicable under the circumstances. In the case of emergency or special meetings called on short notice, reasonable accommodation shall be afforded the employee; however, if an employee's services are deemed indispensable by such employee's supervisors, the needs of the service shall take precedence over the board or commission meeting.
- (2) Should it become necessary for an employee to travel out of the city in connection with such employee's official duties as a member of any city board or commission, or other such board or commission where city employee representation is required, such time shall be charged in the same manner as that related to absences while on official business of the city.
- (3) The time taken pursuant to this section for attendance at meetings and other official functions of boards and commissions of the city or other such boards and commissions where city employee representation is required shall not exceed 48 hours per year for regular, special or emergency called meetings and shall

not exceed three days per year for travel out of the city. Travel out of the city for "53 hour" employees of the fire department shall not exceed six days per year.

**Sec. 114-428. Paid leave for health screenings for certain health concerns**

(a) The city shall make available up to four hours of paid leave, one time per calendar year, to regular, full-time city employees for the purpose of undergoing health screening for cardiovascular disease, cancer, HIV, diabetes and pneumonia/ influenza.

(b) Employees must submit to their supervisor or appropriate department personnel representative a signed copy of the medical documentation verifying they underwent a health screening for one or more of the above illness or disease processes, in order to be granted leave under provisions of this section.

**Sec. 114-429. Voluntary shared leave program.**

(a) *Purpose and applicability.* The purpose of this section is to set forth procedures and requirements for a "Voluntary Shared Leave Program" under which leave (annual, sick and compensatory time) may be transferred from one employee to another in the event the receiving employee or an immediate family member suffers from a serious illness or injury that necessitates the employee's absence from work.

(b) *Definitions.*

(1) *Family member* refers to the following relatives of the employee:

- a. Spouse or domestic partner and his/her parents;
- b. Children, including adopted children, and their spouses;
- c. Parents;
- d. Brothers and sisters and their spouses; and
- e. Any individual related by blood or whose close association is the equivalent of a family relationship.

(2) *Leave recipient* means an employee who receives donated leave.

(3) *Leave donor* means an employee who voluntarily transfers leave to the shared leave account of a leave recipient.

(4) *Severe illness or injury* means a catastrophic medical condition of an employee or a family member that would require the

employee's absence from work for an extended period of time and would result in a loss of income.

(5) *Shared leave account* refers to an account established for a leave recipient to receive donated leave and shall be maintained separately from other leave balances.

(c) *Requesting shared leave.* To be eligible to receive shared leave, an employee shall:

(1) Meet the following eligibility requirements:

- a. Is a regular employee with satisfactory or effective performance rating;
- b. Incur a severe illness or injury; or
- c. Serve as a caregiver responsibility for a family member with a severe illness or injury; and
- d. Has exhausted all leave and advanced sick leave.

(2) Prepare a "shared leave request form" by:

- a. Obtaining a request form from the supervisor or manager; and
- b. Submitting a completed form to the supervisor and department head for signatures and transmission of the form, including medical verification, to the department of human resources, before or during the period of leave.

(3) Provide medical verification by:

a. Obtaining a medical statement signed by a licensed physician that:

1. Verifies and describes the incapacitating condition which requires the employee's absence; and

2. Provides the beginning date of treatment and the date employee is expected to return to work, or in the case of a family member, the expected duration of the illness.

b. Sending the medical statement directly to the department head of the leave recipient.

(d) Status while receiving shared leave

(1) Insurance benefits and leave accrual continue if an employee is in a shared leave status.

(2) Shared leave ends when an employee returns to work or is separated from employment. If the medical provider recommends a gradual return to work, additional shared leave use may be



approved by the commissioner of human resources in conjunction with the recipient's department head.

(3) Any employee on shared leave shall be prohibited from taking another job. Violation of this section shall cause the immediate forfeiture of any remaining donated leave.

(e) Donating leave

(1) An employee who desires to donate leave shall complete a "voluntary shared leave form" designating the recipient of the leave and the amount and category of leave to be donated.

(2) Employees donating leave shall donate a minimum of hours in any leave category.

a. An employee may donate no more than 50 percent of the annual or sick leave accrued in a work year. The amount of leave donation shall not exceed 50 percent of the leave balance at the time of donation.

b. A non-exempt employee may donate as many hours of compensatory hours as desired.

(f) Leave limitations.

(1) A leave recipient may receive and be allowed to use no more than 2,080 hours from the date of approval, per occurrence of severe illness or injury; except that sworn employees of the Atlanta Fire Department on a 53-hour schedule shall be entitled to receive and use no more than 2,756 hours.

(2) Donated leave may be used only for the severe illness or injury for which the leave recipient is approved.

(3) No employee may donate leave to an immediate supervisor.

(4) Donated leave may not be used to repay advance sick leave.

(5) A leave recipient shall not transfer donated leave to another leave recipient.

(6) Unused donated leave shall not be credited to the leave recipient's accrued or earned leave balances, or pension account. Any unused leave shall be forfeited.

(7) Nothing in this plan is grievable.

(8) Exempt employees may not donate compensatory time.

(g) *Prohibition of coercion.* An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with respect to donating, receiving, or using sick or vacation leave.

(h) Records and reports.

(1) The department of human resources shall retain the following documents on individual leave donations:

- a. Approved and disapproved leave recipient and donor forms;
- b. Number of hours transferred to each leave recipient;
- c. Number of donated hours used by each recipient,
- d. Written notice of termination of severe illness or injury, and
- e. Any other material pertinent to each leave recipient or donor.

(2) Voluntary shared leave program documents must be maintained separately from other employee personnel files.

(i) Administrative responsibilities.

(1) Department head of leave recipient shall review and provide recommendation concerning employee's request, monitor the status of the employee's severe illness or injury to ensure adherence to the policies and requirements concerning the voluntary shared leave program.

(2) The department of human resources shall:

- a. Review request to become a leave recipient;
- b. Verify the eligibility of a leave donor;
- c. Advise when request to become a leave recipient is approved or disapproved;
- d. Notify the department of finance of request approval; and,
- e. Notify the department of finance when the leave status has ended.

(3) Department of finance shall:

- a. Make appropriate adjustments to recipient and donor leave balance; and
- b. Maintain special shared leave account.

(j) *Confidentiality.* This information will be kept confidential to the extent authorized under the Open Records Act.

**Secs. 114-430--114-435. Reserved.**

## **DIVISION 15. OUTSIDE EMPLOYMENT**

### **Sec. 114-436. Definition and conditions.**

Outside employment shall constitute any paid employment of an employee which is in addition to such employee's employment with the city. As related to one's employment with the city, outside employment shall only be allowed under the following conditions:

- (1) Such employment shall not interfere with or affect the performance of the employee's duties.
- (2) Such employment shall not involve a conflict of interest or a conflict with the employee's duties.
- (3) Such employment shall not involve the performance of duties which the employee should perform as part of such employee's employment with the city.
- (4) Such employment shall not occur during the employee's regular or assigned working hours, unless the employee is on either annual leave, compensatory leave or leave without pay.
- (5) No employee engaging in outside employment shall work at such outside employment for a longer period of time than that stated in the employee's request for permission to engage in such employment.
- (6) Such employment shall be conditioned upon the employee's being relieved immediately for the return to and performance of the duties of such employee's employment with the city, if such employee should be called for emergency service.
- (7) Such employment shall not involve the use of records or equipment of the city. Police uniforms shall not be considered equipment in the meaning of this subsection.

### **Sec. 114-437. Procedure**

- (a) No employee shall perform outside employment without having first filed a written request with such employee's department head for permission to engage in outside employment. Such request shall state the type and duration of employment, the hours of work, the name and business address of the prospective employer and the location of the place at which such employee shall be engaged in outside employment.
- (b) The department head shall have the right to deny the request or approve the request, provided that such employment is in compliance with section 114-436.

(c) The finance/executive committee of the city council shall be notified when outside employment has been approved for employees whose appointments are subject to city council confirmation. Such notification shall be accompanied by a copy of the written request required by subsection (a) above.

**Secs. 114-438--114-450. Reserved.**

## **DIVISION 16. EMPLOYEE DEVELOPMENT**

### **Sec. 114-451. Employee development**

(a) The commissioner of human resources shall cooperate with department heads, employees and others in promoting and providing programs of development for the civil service. Such programs shall improve the quality of service rendered to the public and to enhance employees' skills for advancement and career success.

(b) The commissioner of human resources shall cooperate with department heads, employees and others in promoting measures directed toward making working conditions more sanitary, safe and healthful.

### **Sec. 114-452. Administration of employee development.**

The commissioner of human resources shall perform the following functions:

(1) Recommend to department heads programs and standards for employee development.

(2) Assist department heads in development and implementation of programs to meet the specific needs of such departments and aid in the development and utilization of other techniques for increasing employee efficiency.

(3) Develop and implement supervisory, management and other employee development programs for all departments.

(4) Provide information concerning career development opportunities for employees.

(5) Ensure that all development opportunities and programs are provided to all employees without regard to political affiliation, race, color, national origin, disability, age, sexual orientation, gender or religious creed.

(6) Maintain a record of all programs and a record of those employees successfully completing such.

**Secs. 114-453--114-500. Reserved.**

## **ARTICLE VI. LABOR RELATIONS\***

### **DIVISION 1. GENERALLY**

#### **Sec. 114-501. Short title.**

This article shall be known and may be cited as the labor-management relations ordinance.

#### **Sec. 114-502. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adverse action* means a disciplinary action taken for cause by a department head or designee which results in suspension without pay, demotion or dismissal of a regular, nonprobationary employee in the classified service of the city or any regular nonprobationary sworn officer of the department of police or department of fire who holds the rank of captain or below. It does not include actions which result from challenging the decision to implement or the scope of a reduction in force or actions resulting from insufficient funds, decrease in funds or departmental reorganization or denial of annual increase based on the employee receiving a less than effective performance evaluation. Adverse actions may be appealed to the civil service board.

*Appeal* means a written request by an employee for review by the civil service board of an adverse action, removal from the eligible list, procedures used in a reduction in force or unjust coercion or reprisal as provided in this article.

*Appointing authority* means the official, group of officials, acting official or other person designated by the proper authority having the power of appointment, employment or election to or removal from subordinate positions in the city employment service.

*Board* means the civil service board of the city.

*Classified service* means that which is referenced in 114-84.

*Commissioner*, unless otherwise specified, means the commissioner of human resources.

*Counseling* means a deliberation or discussion between employee and supervisor in which the employee's supervisor advises the employee regarding the appropriateness of work-related attitudes, behaviors, actions, conduct or performance of the employee and where necessary offers assistance or advise in correcting such.

*Days*, unless otherwise specified, means working days.

*Demotion* means a change of employment to a position in a class which has a lower maximum salary limit than the class from which the assignment was made. A reduction in pay shall not be deemed a demotion for cause if such reduction results from a demotion during a probationary period such that the employee is returned to the position held immediately prior to the promotion, a reduction in force, insufficient funds, decrease in funds, departmental reorganization or a change of appointment made in the discretion of the appointing authority as provided by this Code and shall not be appealable under this article.

*Disciplinary action* means an action taken for cause by a department head or designee which results in an oral admonishment, a written reprimand, demotion, suspension with or without pay or dismissal of a regular nonprobationary employee in the classified service of the city or any regular nonprobationary sworn officer of the department of police or department of fire who holds the rank of captain or below. Disciplinary actions include all adverse actions. Only those disciplinary actions which are adverse actions, suspension without pay, demotions or dismissals, by definition of this article, are appealable to the civil service board.

*Dismissal* means the discharge, termination or removal of an employee from employment with the city.

*Eligible* means a person who has qualified to be placed on a list or register of persons eligible for employment with the city pursuant to article IV of this chapter pertaining to civil service.

*Grievance* means a written request by an employee for review of an allegation which describes a work-related event or a condition of employment which the employee reasonably believes is unfair in light of the rules, regulations and standards which govern the employment relationship with the city.

*Hearing officer* means a member of the civil service board appointed by the mayor and confirmed by the council as provided in this article and who is designated in routine rotation sequence to hear appeals filed with the civil service board.

*Hearing panel* means three members of the civil service board who are designated in routine rotation sequence to hear appeals of dismissals filed with the civil service board.

*Oral admonishment* means a verbal discussion by a supervisor with an employee calling attention to the employee's substandard work performance or

inappropriate conduct and requiring correction of the substandard work performance or inappropriate conduct within a specified timeframe.

*Performance evaluation* means a periodic written report approved by the appointing authority or designee relative to the work-related conduct and performance of the employee and which is issued in accordance with article IV of this chapter.

*Probationary employee* means any employee appointed to a regular position who has not completed the required probationary period in a given class qualifying the employee for regular employment in that class served in accordance with article IV of this chapter.

*Reprimand* means a written report to an employee by a supervisor calling attention to the employee's substandard work performance or inappropriate conduct and requiring correction of the substandard work performance or inappropriate conduct within a specified timeframe.

*Separation* means termination of the employment relationship.

*Suspension* means the temporary removal of an employee from a position of employment with the city with or without pay.

#### **Sec. 114-503. Point of Contact.**

The commissioner of human resources shall serve as the principal employee relations official for this city and shall be responsible for representing the city in discussions with employee organizations concerning personnel policies, practices or procedures and working conditions of city employees.

#### **Sec. 114-504. Disparate treatment prohibited.**

There shall be no disparate treatment against or in favor of any employee because such employee is a member of an employee organization. No employee shall be required, as a condition of employment with the city, to become or to remain a member of a labor or employee organization.

#### **Sec. 114-505. Meet and confer sessions.**

(a) The mayor or designee shall meet and confer annually with any interested employee organization group recognized for deduction of dues under section 114-28 of this Code, for the purpose of discussing wages, rates of pay, working conditions, and other terms and conditions of employment.

(b) Any consensus reached between the mayor and employee organizations may be embodied in a written memorandum of understanding..

**Secs. 114-506--114-515. Reserved.**

## **DIVISION 2. GRIEVANCES**

### **Sec. 114-516. Application of division.**

The policies and procedures set forth in this division for the processing of grievances shall apply to all regular employees in the classified service of the city and all nonprobationary sworn employees in the departments of police and fire.

### **Sec. 114-517. Statement of policy.**

Employee grievances should, to the fullest extent practicable, be promptly considered and/or equitably resolved. The city establishes its policy to encourage employees to seek review of legitimate grievances and to require that the managerial and supervisory personnel of all city departments make every effort to fairly resolve grievances of employees in their respective departments at the earliest opportunity.

### **Sec. 114-518. Purposes.**

The procedures set forth in this division are established to:

- (1) Establish and implement a clear, expeditious, efficient and equitable system of processing employee grievances;
- (2) Allow for informal resolution of grievances between employees and managerial and supervisory personnel of city departments;
- (3) Provide a prompt and fair opportunity for employees to seek review of legitimate grievances without fear of reprisal or coercion or unequal treatment; and
- (4) Encourage managerial and supervisory personnel of city departments to eliminate or correct causes of legitimate grievances of employees.

### **Sec. 114-519. Matters for which grievances may be filed.**

The procedures set forth in this division for the resolution of employee grievances shall apply to the following:

- (1) Supervisory-employee relationships;
- (2) Working conditions;
- (3) Classification and pay issues;



- (4) Departmental policies and procedures;
- (5) Citywide policies and procedures;
- (6) Other employment-related issues not prohibited by city, state, county or federal law;
- (7) Disciplinary actions other than adverse actions; and
- (8) Any other matter determined grievable by the commissioner of human resources pursuant to section 114-521.

**Sec. 114-520. Matters for which grievances may not be filed.**

The procedures set forth in this division for the resolution of employee grievances shall not apply to the following:

- (1) Routine transfers.
- (2) Selection from a properly certified eligibility list.
- (3) Reassignment.
- (4) Staffing levels.
- (5) Neither the commitment setting session nor the rating an employee receives under the employee performance appraisal system.

**Sec. 114-521. Determination as to whether a matter is grievable.**

If the determination by the employee's department is that the matter is not grievable under sections 114-519 and 114-520, the department must notify the employee in writing of the employee's right to request a review of the determination of grievability by the commissioner of human resources. The employee may request such review and the determination of grievability shall be made as follows:

- (1) *Submission of request for determination of grievability form.* The employee shall obtain a request for a determination of grievability form from the commissioner of human resources. The employee shall complete the form and shall provide therein sufficient facts and details of the circumstances giving rise to or the causes of the employee's grievance. The employee shall submit the form to the commissioner of human resources within five days from the date the employee was notified by the employee's department that the matter for which the employee seeks redress is not grievable.
- (2) *Determination by commissioner of human resources.* Within five days of receipt of the determination of grievability form, the commissioner of human resources shall make a written determination as to whether the matter is grievable under section 114-519.

(3) *Notice of determination of grievability.* A notice of determination of grievability shall be sent to the employee by certified mail and a copy to the employee's department. The notice shall state whether the commissioner of human resources finds the matter grievable or not grievable and shall contain the statement of reasons for such determination.

**Sec. 114-522. Right of representation.**

The employee shall have the right of representation at all stages of the grievance procedure.

**Sec. 114-523. Grievance resolution procedures.**

The following procedures shall govern the processing of grievances:

(1) *Verbal discussions initiated by aggrieved employee.* Any employee who has a grievance, as provided in section 114-519, or a matter found to be grievable, as provided in section 114-521, may initiate the grievance process by requesting a meeting for the verbal discussion of the grievance with the employee's immediate supervisor within three working days of the occurrence of the incident giving rise to the grievance or becoming aware of the incident giving rise to the grievances. The immediate supervisor, at the time of the employee's request for a meeting, shall schedule a meeting for discussion for a definite time and place, but such meeting shall not take place later than three working days following the employee's request. After the meeting, the supervisor shall investigate the employee's grievance and verbally communicate a decision to the employee within three working days of the meeting.

(2) *Submission of grievance to immediate supervisor.* If, after the supervisor's verbal response, the grievance is not resolved to the employee's satisfaction and the employee desires to pursue the matter, the employee shall submit, in writing, on a form supplied by the commissioner of human resources, the nature of the grievance, the facts to support the grievance, any supporting documents and the requested remedy. Copies of the grievance will be forwarded to the head of the affected department and the commissioner of human resources. The form shall be submitted by the employee to the immediate supervisor within five working days of receipt of the verbal decision rendered by the supervisor. Within three working days of the receipt of the grievance form, the supervisor shall set forth in writing on the corresponding section of the grievance form and transmit to the employee the findings of the investigation and the reasons therefor and shall attach all supporting documents.

(3) *Submission of grievance to next level supervisor.* If the grievance is not resolved by the supervisor to the employee's satisfaction and the

employee desires to pursue the matter, the employee may submit the completed grievance form to the next level supervisor having authority to resolve the grievance within three working days of receipt of the decision by the supervisor. The next level supervisor shall investigate the grievance and, as necessary, shall collect evidence. Within five working days of receipt of the grievance form, the next level supervisor shall set forth in writing on the corresponding section of the grievance form and transmit to the employee the findings of the investigation, the decision on the grievance and the reasons therefor and shall attach all supporting documents.

(4) *Submission of grievance to director.* If the grievance is not resolved by the next level supervisor to the employee's satisfaction and the employee desires to pursue the matter, the employee shall submit the completed grievance form to the director of the office under which the employee is employed within three working days of receipt of the supervisor's decision. The director shall investigate the grievance and, as necessary, shall collect evidence. Within five days of receipt of the grievance form, the director shall set forth in writing on the corresponding section of the grievance form and transmit to the employee the findings of the investigation, the decision on the grievance and the reasons therefor and shall attach all supporting documents.

(5) *Submission of grievance to department head.*

a. If the grievance is not resolved by the director to the employee's satisfaction, the employee may submit the completed grievance form to the head of the employee's department within three working days of receipt of the decision of the director. The head of the employee's department shall investigate the grievance as appropriate and shall collect evidence. Within five working days of receipt of the completed grievance form, the department head shall set forth in writing the final determination of the employee's grievance by the department. The final determination shall include the decision on the grievance, state the reasons therefor shall and include any supporting evidence. A copy of the final determination by the department shall be given to the employee or sent to the employee by registered mail no later than the tenth day from date of receipt of the grievance by the head of the employee's department.

b. If the grievance is from an employee of the department of fire or department of police, the final paragraph of the chief's letter will differ significantly depending upon the grieving employee's sworn or nonsworn status as follows:

1. If the grieving employee is sworn, the last paragraph will advise the grievant that the chief's decision is not subject to any further administrative appeal, but that the grievant could seek redress in the civil courts on the employee's own initiative and expense. Copies of this letter will be distributed to the deputy chief, the immediate supervisor, the employee's personnel file and the city attorney's office.

2. If the grieving employee is nonsworn, the last paragraph will advise the grievant that the chief's decision could be appealed to the commissioner of human resource as per subsection (6) of this section. Copies of this letter will be distributed to the deputy chief, immediate supervisor, the employee's personnel file and the city attorney's office.

3. The time constraints of subsection (5)a of this section shall apply to this subsection.

(6) *Submission of grievance to department of human resource.* If the employee is not satisfied with the final determination on the grievance by the department and the employee desires to pursue the matter, the employee may submit the completed grievance form to the commissioner of human resources within three working days of receipt of the decision by the department. Within ten working days of the receipt of the grievance, the office will investigate the circumstances surrounding the grievance, prepare findings of fact thereon and, upon approval of the commissioner of human resources, recommend to the employee and the department, in writing, a resolution of the grievance. If the grievant is an employee of the department of human resources, such prior approval shall not apply. If the recommended resolution requires action by the employee's department, the recommendation shall include a timetable for the implementation of the action. All recommendations made by the commissioner of human resources shall be binding on both the employee and the affected department. Should the employee's department disagree with the decision of the commissioner of human resources, the recommendation may be submitted by the commissioner of human resources to the chief operating officer or designee who shall make within ten days the final determination on the grievance. In no case shall the time to inform the employee of the final decision exceed 15 days from the date of the decision by the commissioner of human resources, and to the extent that this subsection is in conflict with subsection (5)b of this section, then subsection (5)b of this section controls.

(7) *Failure to follow procedure.* The failure of supervisory employees or city officials to follow the steps outlined in this section shall result in conferring upon the employee the right automatically to proceed to the next step in the grievance procedure. Failure of the employee to follow the steps outlined in this section shall result in the dismissal of the grievance.

(8) *Final determination.* The decision by the commissioner of human resources or, in instances in which the grievance is submitted to the chief operating officer, the decision of the chief operating officer shall be final and conclusive.

#### **Sec. 114-524. Extension of time in grievance process.**

Time limit requirements for employees who request action on a grievance or for departmental supervisor to respond to employee grievances, as specified in section 114-523, may be extended by agreement of the employee and the supervisor. All agreements for extension of time shall be in writing and shall be signed by the parties thereto. Copies of such agreement shall be attached to the grievance form, kept by the supervisor and given to the employee.

#### **Sec. 114-525. Grievance forms.**

The diversity manager, upon approval of the commissioner, shall issue standard grievance forms for use by employees and managerial personnel of city departments in the grievance resolution process prescribed in section 114-523. Grievance forms shall be available at least in the following places: the offices of department heads, office directors and agency heads of all city departments, and the department of human resources. The form should require at a minimum the following:

- (1) Name
- (2) Title of position
- (3) Grade
- (4) Department and office
- (5) Code section violated
- (6) Remedy requested

#### **Sec. 114-526. Statement of policy.**

(a) *Progressive discipline.* It is the policy of the city to impose, where reasonable, progressive discipline according to procedures that are fair, prompt and appropriate to the situation. However, when an infraction is such as to impair or destroy the future effective performance of the employee or when the employee's presence impairs the effectiveness of

others or presents danger to the employee, others or city property, action shall be taken to immediately remove the employee from the work environment. The city supports a process in which disciplinary action is applied in several steps of increasing severity. The usual sequence of progressive discipline is oral admonishment, written reprimand, suspension and dismissal. The progressive disciplinary process affords the employee the opportunity to correct behavior or inadequate job performance with the minimum level of discipline applied at each step.

(b) *Authority of fire chief and police chief.* Notwithstanding anything in this division to the contrary, the fire chief and police chief shall retain authority to administer corrective and disciplinary action, to formulate rules and regulations for the operation of their departments and such other powers and responsibilities as are provided by ordinance.

#### **Sec. 114-527. Process of progressive discipline.**

Prior to application of any disciplinary action permitted by this division, the following shall be met:

(1) *Orientation.* During the probationary period all employees shall be informed of their job duties and the rules, regulations and standards that apply to them. At a minimum, this should include an initial orientation to the job and the organization.

(2) Course of action when rule or standard is violated.

a. *Duty to promptly investigate violation.* The manager or supervisor shall promptly investigate the facts and circumstances of the incident before deciding on the disciplinary action to be taken.

b. *Determination of appropriate disciplinary action.* The reasonable disciplinary action shall be determined by considering relevant factors, including but not limited to the seriousness of the offense, whether the offense was willful and deliberate, unintentional or the result of gross negligence and the employee's record of performance and conduct.

#### **Sec. 114-528. Cause for action.**

(a) No employee shall be dismissed from employment or otherwise adversely affected as to compensation or employment status except for cause. However, this shall not apply to employees dismissed or otherwise adversely affected due to curtailment of funds or reduction in staff or reorganization or demoted during a probationary period such that the employee is returned to the position held immediately prior to promotion when such action is in accordance with article IV of this chapter.

(b) The following actions constitute cause for which disciplinary action may be imposed, but the imposition of disciplinary action shall not be limited to such offenses:

- (1) Negligence in performing assigned duties.
- (2) Incompetence, inability or failure to perform assigned duties, including but not limited to loss of job requirements, such as the loss of a required license.
- (3) Failure to carry out an official directive or refusal to carry out the lawful, reasonable directions given by a supervisor or other acts of insubordination.
- (4) Misconduct, including but not limited to engaging in offensive conduct or language toward the public, supervisory personnel or fellow employees.
- (5) Excessive tardiness.
- (6) Excessive absenteeism.
- (7) Abuse of sick leave.
- (8) Absence without official leave.
- (9) Abandonment of job. An employee not on authorized leave of absence who, without valid reason, fails to report for work for three consecutive days.
- (10) Unauthorized use of city property.
- (11) Abuse or theft of city property.
- (12) Willful making of false statements to the public, supervisors, officials, boards, department heads or agencies or the willful making of false statements on an employment application within the city.
- (13) Consumption of alcoholic beverages, drugs or controlled substances while at work.
- (14) Intoxication on the job.
- (15) Acceptance of gratuities or contingent fees or other conduct in violation of the code of ethics.
- (16) The refusal, when so directed, to be examined by a licensed physician designated by the city.
- (17) Political activity in conflict with article IV of this chapter or with other sections of this Code.
- (18) The conviction of a job related felony or of a misdemeanor involving moral turpitude.

(19) The violation of article IV of this chapter or of administrative rules and regulations promulgated pursuant to this Code.

(20) Any other conduct or action of such seriousness that disciplinary action is considered warranted.

(21) The sale or distribution of any illegal drugs or controlled substances, as defined by state law.

(c) Notwithstanding anything in this division to the contrary, the appointing authority or designee shall require the dismissal of any city employee who is convicted while a city employee of the sale, distribution or use of any illegal drug or controlled substance as defined by state law, rape, murder or any felony.

#### **Sec. 114-529. Procedure for imposing disciplinary action.**

(a) *Oral admonishment.* Oral admonishment, as defined in section 114-502, shall be given verbally and shall communicate a warning of an error or inappropriate behavior, inform the employee of the appropriate behavior and offer assistance in correcting the situation. The employee should be advised that the date and nature of the oral admonishment will be documented in the supervisor's file. Depending on the circumstances or seriousness of the offense, no more than two oral admonishments should be given to the employee for the same type of offense, after which a more severe type of disciplinary action should be taken. Sufficient time for improvement should be allowed before further action is taken.

(b) *Reprimand.* A reprimand, as defined in section 114-502, shall be written and given promptly following the act or behavior in question. It shall communicate a warning of error or inappropriate behavior and state more serious action will be taken if the offense is repeated. The reprimand shall be addressed to the employee and shall include the charge, the specific behavior, dates of the behavior where appropriate, the warning that continuance of the behavior will result in further disciplinary action. A copy of the reprimand should be forwarded to the commissioner of human resources and placed in the employee's official personnel file.

(c) *Adverse actions.* An adverse action shall be written and shall be imposed in accordance with the procedural requirements set forth in section 114-530. Adverse actions include the following:

(1) Suspension without pay.

a. *When proper.* The appointing authority or designee may suspend an employee without pay for cause and proper disciplinary purposes, as set forth in section 114-528, or for pending criminal court action when such criminal court action is job related or in the reasonable judgment of the



department head would deter the employee from effective performance of job duties.

b. *Length of suspension.* A suspension without pay for disciplinary purposes shall be proportional to the offense and shall not exceed 30 days for any one offense or for multiple offenses arising out of the same incident. A suspension without pay pending the adjudication of criminal charges may be imposed until the final disposition of those criminal charges. However, back pay shall be awarded if the final disposition of charges does not result in a conviction.

(2) *Demotion.* The appointing authority or designee may demote an employee for cause as set forth in section 114-528, provided that a change of appointment made in the discretion of the appointing authority as provided by this Code or a demotion during a probationary period which results in an employee's being returned to the position held immediately prior to promotion shall not be considered an adverse action.

(3) *Dismissal.* The appointing authority or designee may dismiss an employee for cause as set forth in section 114-528.

#### **Sec. 114-530. Procedure for imposing adverse actions.**

(a) *Notice required.* An employee against whom an adverse action is to be taken shall be given a written notice of proposed adverse action, signed by the appointing authority or designee, at least ten working days prior to the effective date of the proposed adverse action. However, in an emergency situation, the adverse action may become effective immediately following the employee's response, if any. During the period of the notice, the employee is expected to perform usual duties without disrupting the activities of other employees or operations of the city department. Any action by the employee to the contrary shall be considered an emergency situation as defined in section 114-532.

(b) *Contents of notice required.* The notice of the proposed adverse action shall include the following:

(1) The proposed action to be taken.

(2) The effective date of the adverse action, which shall be at least ten working days after the date the notice is received by the employee, or delivered by certified mail to the employee's last-known address.

(3) The specific and detailed charges and reasons for the adverse action.

(4) A statement that the employee has the right to respond in writing to the charges or to appear before the appointing authority

or designee who has authority to affirm or modify the proposed adverse action at a specified time, with a representative if desired, during regular working hours within the employee response period specified in this section.

(5) A statement that failure by the employee to respond by the specified date means that the employee has waived all further appeal rights within the department.

(c) Procedures for employee response to adverse action.

(1) *Purpose.* The employee response procedure is created to protect the employee from erroneous, arbitrary adverse actions and to afford the acting department an opportunity to reevaluate its position on the proposed adverse action and affirm or modify the action.

(2) *Requirements.* The employee shall be given the opportunity to respond to charges before the appointing authority or designee who has authority to affirm or modify the proposed adverse action, provided that a full evidentiary hearing prior to the adverse action is not required.

a. *Employee response period.* The employee shall respond to the adverse action verbally or in writing within five working days from the date of receipt of the notice of the proposed adverse action. If the employee does not respond by the date required in the notice, the employee shall waive further appeal rights within the department.

b. *Response options.* The employee's response may be made in writing or in person or both.

c. *Supporting documentation.* The employee may submit statements or supporting documentation from persons having knowledge of the circumstances to support the employee's response.

d. *Representative.* If the employee chooses to meet with the appointing authority, the employee may be accompanied by a representative of the employee's choice.

e. *Further official investigation.* The appointing authority or designee may conduct further investigation of the charges, provided that if the appointing authority or designee determines that additional time is necessary for further investigation and proper consideration of the employee's response to the proposed adverse action, the period of consideration may be extended for a reasonable number of days but in no event longer than ten working days, by notifying the employee in writing as to the length of the extension. The extension notice shall also state that the

effective date of the proposed adverse action shall be delayed for the same number of days as the length of the period of the extension of time for consideration.

(d) Determination and notice of final action.

(1) *Time limit.* The appointing authority shall issue the notice of final action not later than three days after the date of the employee's response. However, if the appointing authority or designee determines that additional time is necessary for further investigation and proper consideration of the employee's response to the proposed adverse action, the period of consideration may be extended as provided in this section.

(2) *Contents of notice of final action required.* The notice of final action shall include but not be limited to the following information:

- a. Statement of the specific adverse action to be taken;
- b. The specific charges for which the adverse action is taken and the reasons therefor;
- c. The effective date of the final action which shall not be earlier than the effective date specified in the notice of proposed adverse action, except in emergency situations in which the effective date of the final action may become effective immediately following the employee's response; and
- d. A statement advising the employee of the right to appeal the determination of final action to the civil service board.

(e) *Copy to commissioner of human resources.* A copy of the notice of final action shall be sent to the commissioner of human resources not later than the effective date of the action.

**Sec. 114-531. Modification of charges of proposed adverse action.**

If the appointing authority or designee determines that additional charges or substantially different charges should be made than specified in the notice of proposed adverse action, the following procedure shall govern:

- (1) If the additional or substantially different charges are more severe than the original charges, a new proposed adverse action or other appropriate action shall be initiated.
- (2) If the final charges are less severe but not substantially different than the original charges, no new proposed adverse action will be required, but the employee shall be furnished with a written notice of the charges, and the proceedings on these charges shall

be concluded within the timeframe and according to the same procedures governing the original proposed adverse action.

**Sec. 114-532. Emergency situations.**

(a) *Conditions for use.* The appointing authority or designee may immediately suspend an employee with pay upon the determination that the following circumstances exist:

(1) There is cause to believe that the employee has committed a crime involving moral turpitude or a felony which is job related or deters the employee from effective performance of the employee's job.

(2) The retention of the employee in active duty status may result in damage to property or may be disruptive, detrimental or injurious to the employee, coworkers, subordinates or the general public or may be disruptive to the daily operation of a city government function.

(b) *Notice of emergency action.* The appointing authority or designee shall give the employee against whom the emergency action is taken a notice of emergency action in writing, not later than five working days after the effective date of the emergency action. The notice of emergency action shall include a statement of the emergency situation that caused the action to be taken. Should the action be an adverse action, the notice shall meet the requirements of section 114-530(b). A copy of such notice shall be sent to the commissioner of human resources.

**Secs. 114-533--114-545. Reserved.**

**DIVISION 3. DISCIPLINARY ACTION**

**Sec. 114-546. Right to file appeal.**

Unless otherwise provided, all appeals to the civil service board, pursuant to this division, are entitled to a hearing which shall be conducted by a hearing officer of the civil service board pursuant to this division. However, with the written consent of all parties and the approval of the hearing officer, a hearing may be waived and the appeal considered on the written record. The following matters constitute proper reasons for which appeals may be filed with the civil service board under this division, along with the conditions required for such appeals:

(1) *Adverse actions.* Any nonprobationary employee in the classified service or any nonprobationary sworn officer of the

department of police or department of fire who holds the rank of captain or any rank below that of captain shall have the right to file an appeal of an adverse action, i.e., suspension, demotion or dismissal, to the civil service board pursuant to the procedures in this article.

(2) *Removal from eligible list.* An eligible, as defined in section 114-502, whose name is removed from a register pursuant to article IV of this chapter, may appeal to the civil service board for reinstatement to the eligible list. If the appeal is upheld, relief shall be limited to reinstatement to the current eligible list.

(3) *Disqualification for reemployment.* An employee under Section 114-84 who has been disqualified for reemployment, as provided in article IV of this chapter, may appeal to the civil service board. Such appeal shall be filed within 30 days of notice of disqualification for reemployment.

(4) *Failure to follow procedures of layoff or reduction in force.* A regular employee who has been laid off, demoted or reduced in salary as a result of a reduction in force may appeal to a civil service board if the reduction in force, as implemented by the appointing authority, is not in accordance with the plan of reduction as approved by the commissioner of human resources.

(5) *Unjust coercion or reprisal.* An employee who is subjected to coercion or reprisal because of participation in an appeal or grievance proceeding authorized by this article may appeal for relief to the civil service board, as provided in this division.

#### **Sec. 114-547. Notice of appeal.**

(a) *Time for filing appeal.* All appeals to the civil service board shall be initiated by filing a written notice of appeal with the commissioner of human resources, in accordance with the procedures established under this division. Unless otherwise provided, the notice of appeal shall be filed and postmarked within five days after the later of:

(1) The date when the employee is sent final written notice of the action or decision or the date final notice is delivered by certified mail to the last-known address.

(2) The effective date of the action or decision.

The notice of appeal shall be considered timely if postmarked within the time allowed for an appeal but shall not be considered filed until actually received by the commissioner of human resources.

(b) *Transmittal of copies of notice within city and assignment to hearing officer/panel.* Upon receipt of the notice, the commissioner of human resources shall immediately transmit a true copy of the notice to the

appointing authority and the commissioner of human resources and shall promptly investigate and attempt to mediate the appeal. Upon completion of the investigation and after every effort has been made to mediate, the commissioner of human resources shall assign the appeal for hearing by a hearing officer of the civil service board in the normal rotation of hearing officer assignments as provided in section 114-548.

**Sec. 114-548. Civil service board members serving as hearing officers.**

(a) *Authorized.* For the purposes of holding hearings of appeals as provided in article IV of this chapter and otherwise assisting in the resolution of appeals under this article, the civil service board shall serve as individual hearing officers. In a dismissal, a panel of three board members shall be convened for the purpose of hearing the dismissal. Notwithstanding any other authority and duties given to the civil service board members, as individual hearing officers they shall compile evidence, prepare findings of fact, issue initial decisions and the basis therefor, certify records and make investigations of matters under the jurisdiction of this article where a review is appropriate.

(b) *Assignment of hearing officers to appeals.* Upon appointment to the civil service board, the appointee's name shall be placed in the alphabetical listing of civil service board members for the purpose of being assigned appeals as scheduled by the commissioner of human resources. Appeals will be assigned according to alphabetical rotation of names.

**Sec. 114-549. Authority and duties of hearing officers/panels.**

Any duly appointing hearing officer/panel shall have the authority to do the following in connection with any hearing under this article:

- (1) Administer oaths and affirmation.
- (2) Regulate the course of the hearing.
- (3) Set the time and place for continued hearings and prehearing conferences.
- (4) Fix the time for filing written arguments as deemed appropriate.
- (5) Dispose of motions to dismiss for lack of the board's jurisdiction over the subject matter or parties or for any other grounds.
- (6) Dispose of motions to amend or to intervene.
- (7) Provide for the taking of testimony by deposition or interrogatory.

(8) Reprimand or exclude from the hearing any person for any indecorous or improper conduct committed in the presence of the hearing officer.

(9) Make informal disposition of any case by stipulation, agreed settlement, consent order or default, unless such disposition is precluded by law.

#### **Sec. 114-550. Hearing procedures.**

Under this article, the following are established to provide uniform procedures for the conduct of hearings by the board or hearing officer appointed by the board:

(1) *Notice of hearing.* The hearing shall be held within 60 days after receipt of the notice of appeal by the commissioner of human resources. Within ten days prior to the date for which the hearing is set, the commissioner of human resources shall designate, from an alphabetical rotation system, a hearing officer/panel of the civil service board and an appropriate time and place to conduct the hearing and shall so notify all parties in writing. Such notification shall be mailed or served at least ten days prior to the date for which the hearing is set. Any hearing officer/panel shall have the authority to postpone or to continue a hearing upon its own motion or upon the motion of either party.

(2) *Representation.* Opportunity shall be afforded both parties a representative of their choice. All arrangements for providing legal counsel shall be the responsibility of the party desiring such representation.

(3) *Prehearing conference.* The hearing officer/panel may arrange a prehearing conference for the purpose of reviewing the matter being appealed and establishing stipulations to expedite the hearing.

(4) *Witnesses.* The appellant or the agency may request the attendance of employees or other persons as witnesses when their testimony will aid in establishing the facts in the case. Employees appearing as witnesses shall be released from duty without the loss of pay or time and without effect on their service rating. No person shall directly or indirectly use or threaten to use any official authority or other influence which would tend to discourage any other person from testifying.

(5) Subpoenas.

a. *Request for subpoena.* The appellant, the department or the hearing officer/panel may request the commissioner of human resources to issue subpoenas for witnesses for

hearings. The cost for securing the attendance of witnesses who are noncity employees, including fees or mileage, shall be computed and assessed in the same manner as prescribed by law for civil cases in the superior court.

b. *Issuance of subpoenas.* Subpoenas shall be issued without discrimination between public and private parties. When a subpoena is disobeyed, any party in the matter may apply to the superior court of the county in which the hearing is being held for an order requiring obedience. Failure to comply with such order shall be cause for punishment as for contempt of court.

c. *Quashing or limiting subpoenas.* Once issued, a subpoena may be quashed or limited by the hearing officer/panel upon the motion of the hearing officer/panel or any party or at the request of the witness, if it appears that the subpoena was used primarily as a means of harassment, that the testimony or documents sought are cumulative, that the testimony or documents sought are not relevant or material, that to respond to the subpoena would be unduly burdensome or that for other good reasons basic fairness dictates that the subpoena should not be enforced.

(6) *Record of hearing.* A court reported recording shall be made of all hearings; however, the recording of a hearing shall not be transcribed unless approved by the commissioner of human resources. If the transcription is so made pursuant to a request by either party in the hearing, the cost thereof shall be borne by the party making the request. In addition to the recording of the hearing of the transcription thereof, all documents entered into the record during the hearing shall be made part of the official record of the hearing.

(7) *Appointing authority's opportunity to be heard.* At the request of the appointing authority or at the invitation of the hearing officer/panel or the board, the appointing authority or designee shall be entitled to be heard and to submit evidence in any appeal in which the interpretation of a civil service rule, regulation, policy or practice is at issue.

#### **Sec. 114-551. Conduct of hearing.**

In the hearing of an appeal under this division, the proceeding shall be informal but orderly. The following procedure shall prevail:

(1) The hearing officer/panel shall open the hearing by explaining the procedure to be followed in the hearing. At the discretion of the hearing officer/panel, any or all witnesses may be sequestered.



(2) The hearing officer/panel shall read or cause to be read the charges and specifications as contained in the notice of appeal, as filed with the commissioner of human resources. Any written response to the notice of appeal as filed with the director shall then be read. By agreement, these documents may be inserted in the record without reading.

(3) The facts not in dispute shall be stipulated.

(4) Each party shall be given the opportunity to make a brief opening statement identifying the issues and stating what is to be proven.

(5) All witnesses shall testify under oath or affirmation.

(6) Each party may conduct such examination of the witnesses as shall be required for a full and true disclosure of the facts. In addition, the hearing officer may examine the witnesses.

(7) Official notice may be taken of facts generally recognized by the public. In addition, official notice may be taken of technical facts within the specialized knowledge of the hearing officer. Parties shall be notified either before or during the hearing, by reference in preliminary reports or otherwise, of the material officially noted, including any staff memoranda or data, and they shall be afforded an opportunity to contest the materials so noticed.

(8) The hearing officer's/panel's experience, technical competence, and specialized knowledge may be utilized in the evaluation of evidence.

(9) Before closing the hearing, the hearing officer/panel shall allow both parties the opportunity to make brief oral or written closing statements.

(10) The hearing officer/panel who presided shall, within 15 days from the close of the evidence, issue a decision. However, for good cause the time may be extended for rendering a decision but in no case shall exceed an additional 15 days. The decision shall be to the parties or their representatives. The hearing officer's/panel's decision shall become final, and there shall be no right to any additional administrative appeals.

#### **Sec. 114-552. Evidence.**

With respect to all hearings before the board or the hearing officer/panel under this division, the following rules regarding the evidence shall govern:

(1) Formal, legal rules of evidence shall not be strictly applied. Evidence may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The

hearing officer/panel shall follow the state rules of evidence regarding privileges, recognized by the law of the state.

(2) Irrelevant, immaterial or unduly repetitious evidence may be excluded.

(3) Objections to evidentiary offers may be made and shall be noted in the record.

(4) When a hearing will be expedited and the interest of the parties will not be prejudiced substantially, any part of the evidence may be received in written form, including but not limited to the use of depositions or interrogatories.

(5) Documentary evidence may be received in the form of copies if the original is not readily available. Upon request and at the discretion of the hearing officer/panel, parties shall be given the opportunity to compare the copy with the original document.

#### **Sec. 114-553. Decision of hearing officer/panel.**

(a) *Requirements of decision.* As part of the final decision, the hearing officer/panel shall include findings of fact and any law on which the decision is based, separately stated, and the effective date of the decision or order. Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Copies of the decision or order shall be mailed to all parties of record by the commissioner of human resources.

(b) *Finality of decision.* The decision of the hearing officer/panel shall be binding on both parties. For appeals of adverse actions, the hearing officer/panel may modify the action of the appointing authority but may not increase the severity of such action on the employee. If the appellant is a nonprobationary sworn officer of the department of police or fire who holds the rank of captain or any rank below captain, the hearing officer/panel may not modify, but must affirm or revoke a suspension or demotion and may affirm, revoke or modify a dismissal to no less than a 30-day suspension. The appointing authority shall promptly comply with the final decision as may be issued as a result of the appeal.

(c) *Relief of appellant.* If the decision of the hearing officer/panel is in favor of the appellant on appeals of dismissal, suspension or demotion, the employee shall be reinstated in accordance with the decision to the classification from which the employee was removed. The effective date of the reinstatement shall be the date immediately following the effective date of the appealed action as if there had been no break in service, unless otherwise specified in the order. The employee shall be entitled to the same salary, with any increases in the position or salary which would have automatically inured to the employee if the employee had remained in actual service. The employee shall receive payment as if there had

been no break in service, minus any amount earned by or paid to the employee from other employment and wage substitutions, including but not limited to unemployment compensation, during the period off the job and minus any amount paid the employee for annual leave. Sick and annual leave shall be restored to the employee in the same amount that existed at the time of the appealed action, plus sick and annual leave that would have been earned for the period if the employee had actually been in service. However, any period of postponement or continuance of the hearing for the convenience of the appellant shall be excluded from any payment of benefits due, and this period of time shall be considered as if the appellant had been on leave without pay. Prior to any payment to the employee, the employee shall certify under oath the amount of any income received from other employment and any wage substitutes received during the period off the job.

**Sec. 114-554. Judicial review.**

The decision of the hearing officer/panel under this division shall not limit the right of either party to judicial review, and such decision shall be stayed by the filing of a petition for review. Any party, including the city or any city department, office, division, commission or board, who has exhausted all administrative remedies available before the board and who is aggrieved by a final decision or order of the board on any hearing may seek judicial review of the final decision or order of the board in the superior court of Fulton County. At the discretion of the appointing authority, it may comply with the decision of the civil service board without waiving its right to petition for review of that decision.

**Sec. 114-555. Dismissal of appeal.**

Upon the motion of either party or upon its own motion, the hearing officer/panel may dismiss any appeal under this division prior to holding a full hearing of the appeal upon the following conditions:

- (1) The appeal is clearly moot;
- (2) The appeal is without merit;
- (3) The appeal was not properly filed with the commissioner of human resources; or
- (4) The appeal is not within the scope of the hearing officer's/panel's authority, as provided in section 114-549.

**Secs. 114-556--114-565. Reserved.**

## **DIVISION 4. SUBSTANCE ABUSE POLICY**

### **Sec. 114-566. Application of division.**

This division shall apply to all employees of the city.

### **Sec. 114-567. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Substances* includes the following:

- (1) Alcohol;
- (2) Illegal drugs, including but not limited to marijuana, cocaine, heroin, methamphetamine and any derivatives thereof;
- (3) Legal drugs and other substances which may impair an employee's ability to effectively perform job functions; and
- (4) Any other dangerous drugs or controlled substances as defined by state law.

### **Sec. 114-568. Employee reform.**

(a) The city recognizes that the work environment should be free from the effects of alcohol and drug abuse. To this end the city shall provide all of its employees an opportunity to voluntarily enter the city's employee assistance program (EAP) for substance abuse without being subjected to any disciplinary action based on substance abuse provided that the employee:

- (1) Voluntarily enters the EAP and adheres to its established guidelines and requirements.
- (2) Completes the primary and after-care elements of the rehabilitation program in strict accordance with the established guidelines as set forth by the EAP.
- (3) Is free of any criminal or administrative charges and has not been directed to be tested based upon reasonable suspicion prior to voluntary entry into the EAP substance abuse program.
- (4) Successfully completes the primary care portion of the EAP and abides by the elements of after-care treatment. Any employee who voluntarily enters the EAP and fails to abide by the established guidelines and requirements shall be subject to disciplinary action up to and including dismissal.

(b) Notwithstanding anything in this section to the contrary, the appointing authority or designee may take appropriate personnel action to protect the affected employee, fellow employees and the public and to meet the needs of the service, necessitated by an employee's temporary or permanent inability to adequately perform the employee's job.

**Sec. 114-569. Use of substances.**

- (a) The consumption or use of illegal drugs by employees is prohibited.
- (b) The consumption or use of alcohol while on duty by employees is absolutely prohibited.
- (c) The abusive use of prescription or other legal drugs and substances while on duty by employees is absolutely prohibited.
- (d) An employee must not report to work or be subject to duty while the employee's ability to perform job duties is impaired due to the use of alcohol, prescription or other legal drugs and substances.

**Sec. 114-570. Drug-free workplace statement.**

- (a) No employee may illegally engage in the manufacture, distribution, dispensation, possession, or use of a controlled substance at any time or place, including while at the employee's workplace. Such unlawful activity will be considered a sufficient ground for a serious adverse personnel action, up to and including discharge.
- (b) In addition to prohibiting employees from engaging in the unlawful manufacture, distribution, dispensation, possession or use of illegal drugs in the workplace, this city prohibits its employees from engaging in such illegal activity at all times and at all places. Such activity, even during nonworking hours, clearly affects an employee's ability to perform public duties.
- (c) If an employee is convicted of violating any criminal drug statute in any jurisdiction, regardless of whether the alleged violation occurred at the workplace or elsewhere, the employee must notify the city personnel office in writing of the conviction within five calendar days of conviction.
- (d) Failure to comply with any part of this section will result in disciplinary action, up to and including dismissal. Specific disciplinary action will follow the prescribed guidelines of this article.
- (e) The implementation of this section shall be the responsibility of all department heads, office directors and supervisors. Each employee will receive a copy of the drug awareness program along with one hour of in-service training on the city's substance abuse policy in this division. Each employee will acknowledge by signature receipt of the policy. All city

employees are responsible for the continued adherence to all policies and ordinances.

**Sec. 114-571. Supervisors' responsibilities and guidelines.**

(a) Supervisors are responsible for consistent enforcement of this division. Any supervisor who knowingly permits a violation of this division by employees under the supervisor's direct supervision shall be subject to disciplinary action.

(b) When a supervisor has reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol, the supervisor must immediately notify the appointing authority or designee. The appointing authority or designee shall advise the employee of right of representation and allow the employee the opportunity to explain the employee's behavior. The appointing authority or designee may require the employee to submit to a drug and/or alcohol analysis.

(c) Reasonable suspicion must be based on specific, objective facts about the conduct of an individual that would lead the reasonable person to suspect that the individual is or has been using drugs. Observations which may constitute a factual basis for determining reasonable suspicion may include but are not limited to the following, alone or in combination:

- (1) Slurred speech.
- (2) Alcohol on breath.
- (3) Inability to walk a straight line.
- (4) Any accident involving city property when the following elements are present:
  - a. Vehicular accidents involving city employees who are cited for traffic code violations.
  - b. Other accidents involving city property in conjunction with additional behavior as outlined in this subsection.
- (5) Behavior which is so unusual and inappropriate in its nature as to create an unsafe work environment or disrupt the normal working condition.
- (6) Possession of alcohol and/or illegal drugs.

**Sec. 114-572. Drug and/or alcohol analysis.**

(a) When directed by the appointing authority or designee, an employee must submit to a drug and/or alcohol analysis test. The direction to submit to the drug/alcohol test must be in writing, signed by the appointing authority or designee, in accordance with section 114-571(c). A blood or urinalysis test may be given. All testing labs, utilized by the city to

analyze specimens, shall be certified to do so in accordance with applicable state and federal law and guidelines.

(b) If the initial results from a urinalysis test are positive, a second test, using thin layer chromatography, gas chromatography, gas chromatography/mass spectrometry or other test procedure with a similar or higher incidence of reliability, will be conducted. A test result will not be considered positive for the purposes of this program unless both types of tests result in positive readings for drug use.

(c) An employee who tests positive may request an additional test of a portion of the original specimen, at the city's expense, provided that the test be conducted within 14 days of notification. The additional test shall be conducted at a testing lab certified to test specimens, in accordance with applicable state and federal law and guidelines.

(d) Any employee who refuses to submit to a drug and/or alcohol analysis when directed by the appointing authority or designee shall be subject to dismissal.

#### **Sec. 114-573. Results of drug/alcohol analysis.**

A positive test result of the drug/alcohol analysis made under this division shall constitute cause for which disciplinary action may be imposed, up to and including dismissal.

#### **Sec. 114-574. Disclosures.**

No public release of information obtained by the city pursuant to this division will be made, except as required by state or federal law.

#### **Sec. 114-575. Procedures.**

The commissioner of human resources shall be responsible for developing procedures for the implementation of this division.

#### **Secs. 114-576--114-600. Reserved.**

### **DIVISION 5. SEXUAL HARASSMENT POLICY**

#### **Sec. 114-601. Statement of policy.**

The city is proud of its tradition of a collegial work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere which promotes equal opportunities and

prohibits discriminatory practices, including sexual harassment. Sexual harassment, whether verbal, physical or environmental, is unacceptable and will not be tolerated. In the event incidents of sexual harassment do occur, it is the policy of the city to take prompt remedial action, calculated to end the harassment. Retaliation for making a complaint of sexual harassment will not be tolerated.

(Ord. No. 1996-55, § 1, 7-8-96)

#### **Sec. 114-602. Definition of sexual harassment.**

It is illegal and against the policies of the city for any employee, male or female, to sexually harass another employee. It is also illegal and against city policy for any employee who may be deemed a representative of the city to sexually harass a non-employee. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual;
- (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Examples of sexual harassment include, but are not limited to: unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; repeated sexual jokes, flirtations, advances or propositions; verbal abuse of a sexual nature; graphic, verbal commentary about an individual's body, sexual prowess or sexual deficiencies; leering, whistling, touching, pinching, assault, coerced sexual acts or suggestive, insulting, obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; ostracizing an employee in conformity with sexual conduct; sexual conduct that reasonably causes mental and emotional detriment to the victim; retaliation against an individual for reporting or complaining about sexually harassing conduct. This behavior is unacceptable in the workplace and is unacceptable in other work-related settings such as business trips and business-related social events.

(Ord. No. 1996-55, § 1, 7-8-96)

#### **Sec. 114-603. Individuals covered.**

- (a) The provisions of this division are applicable to all city employees. The use of the term "employee" shall include any person holding any position or employment with the city, to include without any limitation,



employees of any status or tenure, appointed and elected officials, members of commissions and boards, agents, representatives or interns. The city encourages reporting of all incidents of sexual harassment, regardless of who the offender may be, in accordance with the methods set forth in section 114-604.

(b) In order to ensure the integrity of the work environment, managerial and supervisory personnel are required to ensure adherence to and compliance with this policy and, upon being informed of possible harassment, are required to take appropriate, prompt action in response thereto, including informing complainants of their rights under the procedures set forth in this policy.

(Ord. No. 1996-55, § 1, 7-8-96)

#### **Sec. 114-604. Complaint and investigation procedure.**

Employees who feel that they have been victims of sexual harassment should file a discrimination complaint. Prompt reporting of complaints is strongly encouraged, as it allows for rapid response and resolution of objectionable behavior or conditions for the complainant and any other affected employees. An individual who believes he or she has been subjected to sexual harassment should report the incident to any of the following: employee's departmental EEO coordinator or complaint investigator, the city's diversity manager, or the employee's supervisor or commissioner. In the case of employees in the departments of police, fire or corrections, complaints of sexual harassment may also be made at their respective office of professional standards. The aggrieved employee may elect, at his or her option, to use formal or informal procedures as follows:

(1) Informal complaint procedure:

a. Each department shall designate the departmental EEO coordinator (DEEOC) and at least one man and one woman from the department to serve as complaint investigators.

b. The complainant will meet with a complaint investigator of his/her choosing to discuss any complaint of sexual harassment. A written statement will be taken. An accurate record of objectionable behavior is necessary to resolve a complaint of sexual harassment.

c. The complaint investigator will immediately attempt to resolve the complaint through discussions with appropriate managers, scheduling of meetings with concerned parties, and other informal efforts as appropriate, taking care to preserve confidentiality to the maximum reasonable extent.

d. Upon completion of the investigation, the complaint investigator will forward a written report of the investigation to the department head, with recommendations for resolution or corrective action as appropriate.

e. If the investigative report indicates that there is "reasonable cause" to believe that sexually harassing conduct has occurred, the department head shall implement disciplinary procedures, as outlined below in section 114-605(b), as may be appropriate.

f. If the informal efforts are unsuccessful, the complaint investigator will inform the complainant of his/her right to file a formal complaint with the affirmative action division, and will provide the complainant with a copy of the formal charge form.

(2) *Formal complaint procedure:* If the complainant elects not to pursue the informal procedures or is not satisfied with the results of the informal procedures, a formal complaint may be filed with the diversity manager in the department of human resources as follows:

a. The complaint will be reduced to a written statement on an appropriate form. An accurate record of objectionable behavior is necessary to resolve a complaint of sexual harassment.

b. The diversity manager will review the complaint to assure that the issue is appropriate for the discrimination complaint process. If it is incomplete, the diversity manager will seek clarification.

c. The diversity manager will notify the appropriate departmental officials of the complaint.

d. An investigation of the formal complaint will be initiated by the affirmative action division within five working days of the notification.

e. Upon completion of the investigation, the diversity manager will forward a report of the investigation, with recommendations for appropriate resolution or corrective action, to the commissioner of the department of human resources for review and any recommended changes.

f. The commissioner of the department of personnel and human resources shall forward the report to the head of the office or department in which the harassment is alleged to have taken place.

g. If the investigative report indicates that there is "reasonable cause" to believe that sexually harassing conduct has occurred, the department head shall initiate disciplinary procedures, as outlined below in section 114-605 as may be appropriate.

h. The finding of "reasonable cause" by the diversity manager as approved by the commissioner of the department of human resources on a formal complaint will result in the issuance of a notice of proposed adverse action, where appropriate.

(3) A member of the public who believes that he or she has been subjected to sexual harassment by a city employee should report the incident to the employee's department head or to the diversity manager, for investigation by the diversity manager in the manner outlined in subparagraph (2) above. Alternatively, members of the public may make sexual harassment complaints against employees of the departments of police, fire and corrections at the office of professional standards of the appropriate department.

#### **Sec. 114-605. Resolving the complaint.**

(a) *Determination of "no cause"*: If the investigation reveals that there is no "reasonable cause" to believe that the allegation of sexual harassment is true, the matter shall be deemed resolved for city purposes and the parties shall be free to pursue other available legal remedies.

(b) *Determination of "cause"*:

(1) *Discipline of "cause"*: If the investigation reveals that there is "reasonable cause" to believe that the allegation of sexual harassment is true, the employee determined to have committed the offense of sexual harassment shall be subject to disciplinary action. The complainant shall be informed of the disciplinary action taken.

(2) *Penalty*: Sexual harassment is considered a sufficient ground for serious adverse personnel action. Failure to comply with any part of this policy will result in disciplinary action, up to and including dismissal. A severe or pervasive violation of this policy may result in an employee's termination for the first offense. Where appropriate, specific disciplinary action will follow the process prescribed by section 114-526 through 114-556 of this code of ordinances. The employee's appointing authority shall impose discipline within the following ranges:

a. *First offense*: Sexual harassment training and disciplinary action ranging from a ten-day suspension to dismissal.

b. *Second offense: Dismissal.*

(c) *Return to the workplace upon a finding of "cause":* As the staffing needs of the city dictate, and whenever possible and practical, an employee who has been disciplined upon a finding of "cause" and who returns to the workplace shall not be returned to the same location or assignment that placed him/her in close proximity to the victim, for a period of at least one year from the date of the last act of sexual harassment. As the staffing needs of the city dictate, and whenever possible and practical, a victim's request for a transfer to an assignment or location away from that of the harasser shall be granted for a period of at least one year from the date of the last act of sexual harassment. This provision shall not be mandatory where impractical, inefficient, logistically impossible or contrary to the best interests of the city as a whole, or a department, office or agency.

**Sec. 114-606. Complaints against elected officials.**

(a) Complaints against elected officials can be reported either through the "informal" or "formal" processes in section 114-604, however such complaints shall be promptly investigated by an independent investigator specifically selected for this purpose. Such investigator shall be selected by the city attorney and shall be a member in good standing of the State Bar of Georgia with appropriate skills and experience. Upon completion of the investigation, the findings and recommendations of the investigator shall be transmitted by the city attorney, to the complainant, the alleged harasser and to the city council president or the chair of the committee on council or the committee on the executive, as appropriate.

(b) Upon a determination of cause, the city council president, or the chair of the committee on council, or the chair of the committee on the executive, as appropriate, shall take remedial action against the harasser. That remedial action may include, but is not limited to, counseling by the city council president or committee chair, or a resolution sponsored by the appropriate council committee censuring the offending official.

(c) Any further remedies against an elected official for violation of this sexual harassment policy would be those provided to the electors by the Georgia Recall Statute O.C.G.A. § 21-4-1, et seq.)

**Sec. 114-607. Confidentiality.**

In an attempt to protect the privacy of all persons involved, confidentiality will be exercised throughout the investigatory process to the greatest extent practicable. Inasmuch as the city is subject to the Open Records Act, (O.C.G.A. § 50-18-70, et seq.) and the Open Meetings Acts, (O.C.G.A. § 50-14-1, et seq.), absolute confidentiality cannot be assured.

**Sec. 114-608. Retaliation.**

No city employee, official or officer shall discriminate or retaliate against an individual who makes a report of sexual harassment. Retaliation is a very serious violation of this policy and should be reported immediately. Any individual found to have retaliated against an individual for reporting sexual harassment, or against anyone participating in the investigation of a complaint, will be subject to the disciplinary actions as provided by section 114-605.

**Sec. 114-609. Sexual harassment prevention training.**

(a) Supervisory and management employees:

(1) Each supervisory and management employee shall receive an initial training course of at least four hours and a one-hour annual update training session.

(2) The training course for supervisory and management employees shall include instruction on what sexual harassment is, how to prevent it, what the repercussions are, and the complaint process.

(3) Training for supervisory and management employees shall include sensitivity training.

(4) Training shall be conducted by the diversity manager or his/her designee, who shall be assisted by at least one person of the opposite gender.

(b) Other employees:

(1) Each nonsupervisory, nonmanagement employee shall receive an initial training course of at least three hours and a one hour annual update training session, separate and apart from supervisory and management employees.

(2) The training course for nonsupervisory and nonmanagement employees shall include instruction on what sexual harassment is, how to respond to it, what the repercussions are, and the complaint process.

(3) Training shall be conducted by the diversity manager or his/her designee, who shall be assisted by at least one person of the opposite gender.

**Sec. 114-610. False allegations.**

If an investigation results in a finding that the complainant willfully made a false complaint of sexual harassment, that complainant shall be subject to disciplinary action as provided by section 114-605.

**SECTION 2:** That all ordinances and parts of ordinances in conflict herewith are hereby repealed.